

THE LONDON MAGAZINE.

DECEMBER, 1736.

PROCEEDINGS and DEBATES in the *last Session* of PARLIAMENT, continued from Page 607.

PETITIONS *against the QUAKERS Bill.*



HE Bill for enlarging, amending, and rendering more effectual the Laws then in Being, for the more easy Recovery of Tythes, Church Rates, Oblations, and other Ecclesiastical Dues

from the People called *Quakers*, having been read a first Time, and ordered to be printed, on March 17. as mentioned in our last, (See p. 607) a Petition, of several of the Parochial Clergy of the County of *Middlesex*, was presented to the House, and read on the 26th; which Petition alledged, That the Bill then depending in that House, to enlarge, amend, and render more effectual, &c. would, as the Petitioners conceived, if passed into a Law, be extremely prejudicial to themselves and Brethren, excluding them from the Benefit of the Laws then in being for the Recovery of Tythes and other Dues, and thereby putting the Clergy of the Established Church upon a worse Foot than the rest of his Majesty's Subjects; and therefore desired to be heard by their Counsel upon the Subject Matter of the said Bill, before it passed into a Law.

This Petition was ordered to lie upon the Table, till the said Bill should be read a second Time; and that the Petitioners, if they thought fit, should be then heard by

their Counsel against the said Bill. Then it was ordered, that Counsel should be admitted to be heard for the Bill at the same Time; and that the Bill should be read a second Time on that Day se'enight.

Against this Bill the following other Petitions were presented, and all received as the first, *viz.*

A On the same Day, a Petition of sundry of the Clergy of the County of *Wilts*, in behalf of themselves and their Brethren the Clergy of the said County: A Petition of the Dean and Chapter of *Peterborough*: A Petition of the Clergy of *Northamptonshire*, in behalf of themselves and their Brethren: Another Petition of the Clergy of *Northamptonshire*, in behalf of themselves and their Brethren: A Petition of several of the Parochial Clergy, in behalf of themselves and their Brethren in the County of *Essex*; and a Petition of several of the Parochial Clergy in the County of *Hertford*, in behalf of themselves and their Brethren.

C On the 29th, a Petition of several of the Clergy of the County of *Kent*, and Diocese of *Canterbury*, in behalf of themselves and their Brethren the Clergy of the Church of *England*, as by Law established: A Petition of several of the Clergy of the County of *Kent* and Diocese of *Rockester*, in behalf of themselves and other Incumbents in the said County and Diocese. A Petition of sundry of the Clergy of the County of *Wilts*, in behalf of themselves and their Brethren the Clergy of the said Diocese

Diocese: A Petition of the Clergy of the Diocese of *Bristol*, in and about the said City: A Petition of the Archdeacon, and several of the Clergy of the County of *Gloucester*, in behalf of themselves and the rest of the Clergy of the said County: A Petition of the Clergy of *Rutlandshire*, in behalf of themselves and their Brethren: Another Petition of the Clergy of the County of *Rutland*, in behalf of themselves and their Brethren: A Petition of several of the Parochial Clergy of the County of *Northumberland*, in behalf of themselves and their Brethren: A Petition of several of the Clergy in the County of *Durham*, in behalf of themselves and their Brethren: A Petition of the Dean and Chapter, and Dignitaries of the Church of *York*, and other the Clergy within the Diocese and County of *York*: A Petition of several of the Parochial Clergy of the County of *Somerset* and Diocese of *Bath and Wells*, in behalf of themselves, and the rest of their Brethren: A Petition of the Clergy of the Diocese of *Oxon*, whose Names were thereunto subscribed, in behalf of themselves and the rest of the Clergy of the said Diocese; and a Petition of sundry of the Clergy of the County of *Berks*, in behalf of themselves and their Brethren.

On the 30th, a Petition of several of the Parochial Clergy of the County of *Surrey*: A Petition of several of the Parochial Clergy of the County of *Warwick*, in behalf of themselves and their Brethren: A Petition of the Clergy of the County of *Norfolk*: A Petition of several of the Parochial Clergy in the County of *Stafford*, in behalf of themselves and their Brethren: A Petition of several of the Parochial Clergy of the County of *Dorset*, whose Names were there under written, in behalf of themselves and their Brethren; and a Petition of the Clergy, in and near *Chichester*, in the County of *Suffex*, whose Hands were thereunto subscribed, in behalf of themselves and their Brethren.

On the 31st, a Petition of several of the Clergy of the County of *Brecon*, in *South Wales*, whose Names were thereunto subscribed, in behalf of themselves and others the Clergy of the said County: A Petition of the Clergy in and about the Towns of *Reading*, *Maidenhead*, and *Windsor*, in behalf of themselves and their Brethren in the County of *Berks*; and a Petition of several of the Parochial Clergy in the County of *Salop*, in behalf of themselves and their Brethren.

On the 2d of *April*, a Petition of the Clergy of the County of *Glamorgan*, in behalf of themselves and others.

On the 5th, a Petition of several of the Clergy of the County of *Gaermerthen* in *South Wales*, in behalf of themselves and others of the Clergy of the said County; and a Petition of the Clergy in and near *Lewes* in the

County of *Suffex*, whose Names were thereunto subscribed, in behalf of themselves, and their Brethren.

And on the 6th, a Petition of the Clergy of the County of *Suffolk*: A Petition of sundry Clergymen of the County of *Wilt*, in behalf of themselves and the rest of the Clergy of the said County: Another Petition of several of the Clergy of the County of *Wilt*, in behalf of themselves and the rest of the Clergy of the said County: A Petition of the Archdeacon of *Winchester*, and the Clergy of the County of *Southampton*, within the Diocese of *Winchester*: A Petition of the Dean and Chapter of *Ches*, and others of the Clergy of that County, in behalf of themselves and their Brethren: A Petition of several of the Parochial Clergy in the County of *Derby*, in behalf of themselves and their Brethren; and a Petition of sundry of the Clergy in the County of *Gloucester*, in behalf of themselves and the rest of the Clergy of the said County.

All which Petitions were severally read, and ordered to lie upon the Table, till the said Bill should be read a second Time; and that the Petitioners, if they thought fit, should be then heard by their Counsel against the said Bill.

The second Reading of the BILL, &c.

The second Reading of the said Bill having been put off to *April 12.* after reading the Order of the Day for that Purpose, the Counsel for and against the Bill were called in, and the Bill being then read a second Time, and the several Petitions above-mentioned being also read, the Counsel for the Petitioners of the Province of *Canterbury* were heard, in answer to whom the Counsel for the Bill were heard; and then the Counsel for the Petitioners of the Province of *York*, were heard by way of Reply: After which the Counsel being withdrawn, Mr. Speaker opened the Bill to the House; and then a Motion being made, that the 14th Section of an Act made in the 22d and 23d of K. *Charles II.* intituled, *An Act for the better Settlement of the Maintenance of Parsons, Vicars, and Curates in the Parishes of the City of London, burnt by the dreadful Fire there*; might be read, the same was read accordingly.

The Reason, as may be supposed, for reading this Section was, because, by a Clause in the Bill, even as it then stood, it was proposed to be enacted thus, *That if the annual Value of such Tythes, Oblations, and other ecclesiastical Dues, Rights, Payments, or Church Rates before mentioned, doth not, nor shall not exceed the Sum of* in such Case no Quaker or Quakers shall be sued or prosecuted, for or on Account of the same, in any other Manner, than at before directed, or

in any other Court; neither shall any such Tythes, Oblations, or other ecclesiastical Dues, Rights, Payments, or Church Rates, not exceeding the said yearly Value of be recoverable against Quakers in any other Court whatsoever, nor in any other Manner, than as by this Act is directed, unless the Title of such Tythes be in Question. This Clause, in all the Petitions presented by the Clergy against the Bill, was called, *an excluding them from the Benefit of the Laws then in being for the Recovery of Tythes and other Dues, and thereby putting the Clergy of the established Church upon a worse Foot than the rest of his Majesty's Subjects*; therefore the said Section was read, in order to shew that the assigning of a proper Method for the Recovery of any Right, and excluding the Persons intitled, from any other Remedy, was not putting such Persons upon a worse Foot than the rest of his Majesty's Subjects, nor was it without Precedent; for by the aforesaid Act of K. Charles II. all Suits for the recovering of Church Rates or Assessments, within the City of London, are to be brought before the Lord Mayor, or upon his Neglect to execute the Powers thereby granted, before the Lord Chancellor, or Keeper of the Great Seal, or two Barons of the Exchequer; and, by the said 14th Section, it is enacted, *That no Court or Judge shall hold Plea of Money due by Virtue of that Act, other than the Persons thereby authorized*; and yet the Clergy of London never had complained, nor could complain, that they were excluded from the Benefit of the Laws of their Country, or that they were put upon a worse Foot than the rest of his Majesty's Subjects.

After reading the aforesaid Section, a Motion was made for committing the Bill, upon which there ensued a long Debate, and upon putting the Question for committing the Bill, it was, upon a Division, carried in the Affirmative by 221 to 84, and ordered accordingly; after which it was resolved that the Bill should be committed to a Committee of the whole House.

On April 21. the House, according to Order, resolved itself into a Committee upon the said Bill, when very great Alterations and Amendments were made to every Clause; and it was proposed to leave to every Person intitled to Tythes, an Option to sue for the Recovery of them, either before the Justices of the Peace, as directed by that Bill, or before any of his Majesty's Courts in Westminster-hall; but as this seemed to be inconsistent with the Preamble of the Bill, and with the Intention of the whole, it was strenuously opposed, and upon the Question's being put, it was upon a Division, carried in the Negative by 202 to 96; after which they went thro' the Bill, and directed C——l B——n, (who was in the Chair) to report their Amend-

ments, when the House should please to receive the same.

On the 30th, the said Amendments were, according to Order, reported to the House, when they were all, with Amendments to some of them, agreed to; and a Clause was added, and an Amendment made by the House to the Bill. Then a Motion was made for ordering it to be ingrossed, upon which there was a new Debate; but upon the Question's being put, it was upon a Division carried in the Affirmative by 160 to 60.

On May 3. a Petition of several of the Clergy of the County of Surrey, in behalf of themselves and Brethren, was presented to the House, and read; setting forth, that since they had been heard by their Counsel, in relation to the Bill then depending in the House, to enlarge, amend, and render more effectual the Laws then in being for the more easy Recovery of Tythes, Church Rates, and Oblations, and other Ecclesiastical Dues from the People called Quakers, the Petitioners had been informed of several new Clauses and Provisions, that had been inserted in the said Bill, which the Petitioners conceived to be very prejudicial to the Rights of themselves and the other Parochial Clergy; and therefore praying, that they might be admitted to be heard by their Counsel, in relation to the said new Clauses and Provisions, before they received the final Assent of that House.

DEBATE on passing the Bill.

This Petition was ordered to lie upon the Table, and immediately after, the said Bill was read a third Time; when several new Amendments were made by the House to the Bill; and then a Motion was made for passing the Bill, against which it was alledged, That besides the many material Arguments which had been made use of, or might be made use of against passing that Bill into a Law, there was one relating to Form, which was an unanswerable Argument against its being passed; for the Bill, which was first brought in, had been so thoroughly and so entirely altered in the Committee, that it could not now be looked on as the same Bill; even the very Title of it had been entirely altered in the Committee, and that Bill which was before called, *A Bill to enlarge, amend, and render more effectual the Laws then in being, &c.* was upon the third reading to be called, *A Bill for the more easy Recovery of Tythes, Church Rates, and other Ecclesiastical Dues from the People called Quakers*; which they could not but take to be a very improper Title, for in their Opinion it ought to be called, *A Bill for preventing the Recovery of Tythes, or any Ecclesiastical Dues, from the People called Quakers.*

Quakers. That it was needless to examine particularly all the Alterations that had been made in the Committee, in order to shew that the Bill then read to them was not the same, with that which had been read a first and second Time in that House; it would be sufficient to take Notice of one: By the Bill as it was at first brought in, the Jurisdiction of the Justices of Peace was to have been confined to Tythes of a certain Value, which was certainly designed to be Tythes of a small Value; the Justices were to order and direct the Payment, so as the Sum ordered did not exceed ; but the Committee, by the Bill they had drawn up, which was then read to them, had given the Justices an unlimited Jurisdiction where the Title was not in Question. This they said was a Power which they thought no Committee upon a Bill could take; they might perhaps have filled up the Blank with any Sum they pleased; they might have filled it up with such a large Sum as would have in Effect been the same with granting the Justices an unlimited Jurisdiction: but they could not grant a general and unlimited Jurisdiction by a Bill which, when it came before them, was a Bill for granting a particular and confined Jurisdiction; and if the granting of such a Jurisdiction was then thought necessary, the only Method they could take, according to the established Forms of that House, was to order the Bill then before them to be withdrawn, and a new Bill to be brought in; in which Case, those who thought they might be aggrieved by any Thing in the new Bill would have an Opportunity of being heard against it, which no Man could ever have, if the Method observed in passing the Bill then before them shou'd become an usual Practice; for no Man could know, whether he was to be injured by a Bill or not, till after it had passed thro' the Committee, and then it would be too late for him to apply.

To this it was answered in general, That the Bill then before them was in Effect the very same with the Bill as it was first brought in; many of the Clauses had, indeed, been altered and amended, but the general Scope and Intention of the Bill was the very same, and they did not think the Committee had taken any Liberties with the Bill but what were usual, and such as they were fully intitled to take; for the Reason of their granting an unlimited Power to Justices of Peace with respect to the Value of the Tythe, was because, upon mature Consideration, they found, that all Actions and Suits for Tythes, where the Title was not controverted, were for small Sums, for Sums much smaller than any Sum that was ever intended to have been filled up in that Blank; and since it was acknowledged that the Committee might have filled up the Blank with such a large Sum,

as would have in Effect been the same with granting the Justices an unlimited Jurisdiction, they could see no Reason why the Committee might not do, directly and in express Terms, that which they might certainly have done in a hidden or indirect Manner.

The Question being at last put for passing the Bill, it was, upon a Division, carried in the Affirmative by 164 to 48, and Mr. Glanville was ordered to carry the Bill to the Lords, and desire their Concurrence.

COPY of the Bill as it was sent up to the House of Lords.

An Act for the more easy Recovery of Tythes, Church Rates, and other Ecclesiastical Dues, from the People called Quakers.

Whereas by an Act made in the 7th and 8th Year of the Reign of his Majesty K. Wm. III. of glorious Memory, intituled, *An Act that the solemn Affirmation and Declaration of the People called Quakers shall be accepted instead of an Oath in the usual Form,* a Remedy is provided for Recovery of Tythes and Church Rates not exceeding the Value of 10*l.* where *Quakers* do refuse to pay the same.

And whereas by another Act made in the first Year of the Reign of his late Majesty King George I. the said Remedy is extended, and may be had and used against any *Quaker* or *Quakers* for recovering any Tythes or Rates, or any customary or other Rights, Dues, or Payments belonging to any Church or Chapel, which of Right by Law and Custom ought to be paid for the Stipend or Maintenance of any Minister or Curate officiating in any Church or Chapel.

And whereas the prosecuting of any Suit in the Superior or Ecclesiastical Courts against any *Quaker* or *Quakers*, for any Refusal arising from a Scruple of Conscience, to set out, pay, or compound for his or their great or small Tythes, may be unnecessarily expensive and grievous to such *Quakers*, if the said Tythes can be recovered in a more easy and expeditious Manner:

Be it therefore enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the 24th Day of June, 1736. where any *Quaker* shall refuse or neglect, within ten Days after Notice given, to set out, pay, or compound for, his great or small Tythes, or to pay any Obligation or other Ecclesiastical Dues (except Church Rates) or any Rights or Payments whatsoever belonging to any Church or Chapel, which of Right by Law or Custom ought to be paid for the Stipend or Maintenance of any Minister or Curate officiating in any Church

Church or Chapel, it shall and may be lawful for any two or more of his Majesty's Justices of the Peace within the County, Riding, Town Corporate, or Division, where the same shall grow due (other than such Justice of the Peace as is Patron of the Church or Chapel where the said Tythes or Dues do arise, or any way interested in such Tythes or Dues) and such Justices are hereby authorized and required, upon Complaint of the Parson, Vicar, Curate, Farmer, or Proprietor of, or Person intitled to, such Tythes, Dues, or Payments, as aforesaid, or any other Person who ought to have, receive, or collect the same, by Writing under their Hands and Seals, to summon by reasonable Warning such *Quaker* or *Quakers*, against whom such Complaint shall be made, to appear before them; and also, at the Request of any of the Parties, by Summons in Writing under their Hands and Seals, to convene before them all and every such Persons and Witnesses to give Evidence touching the Matters complained of as any or either of the Parties shall require; and after the Appearance of such *Quaker* or *Quakers*, or in Default of his or their Appearance (the said Warning or Summons being proved before the said Justices upon Oath) they the said Justices, or any two of them, shall proceed to hear the Matter of the said Complaint, upon the Proofs, Evidences, and Testimonies to be produced before them; and for that Purpose to examine as well the said *Quaker* or *Quakers*, in case of his or their Appearance, upon his or their solemn Affirmation, as the several Persons or Witnesses so to be convened before them, or otherwise produced at such Hearing, upon his or their corporal Oaths, or otherwise as by this Act is after directed; and thereupon to state, ascertain, and determine, what is due, payable, or forth-coming by and from such *Quaker* or *Quakers* to the Party or Parties so complaining, and by Writing under their Hands and Seals to make a proper Adjudication thereupon, and thereby to order and award such reasonable Satisfaction, Compensation, and Recompence in Money, to be made and paid to the Party or Parties so complaining as aforesaid, as they shall judge to be just and reasonable for such Tythes, Oblations, or other Ecclesiastical Dues so neglected or refused to be set out, paid, or compounded for, as aforesaid, together with such Costs for the same, according to the Nature and Merits of the Case, as to them the said Justices shall seem reasonable; and by such Order to direct and appoint the Payment of the Sum to be awarded, as aforesaid.

And be it enacted, That if any *Quaker* or *Quakers* shall refuse or neglect, by the Space of ten Days after Notice of such Adjudication, to pay or satisfy any such Sum of Money, as upon such Complaint and Proceeding

shall, by such Justices, as aforesaid, be adjudged, in manner as aforesaid, then and in every such Case it shall and may be lawful for any one of the said Justices, upon Oath made of the Service of a Copy of such Order of Adjudication, or of leaving a Copy of the said Order at the usual Place of Abode of such *Quaker* or *Quakers*, by Warrant under his Hand and Seal, directed to some Constable, or other proper Officer, to order the Money so awarded to be paid as aforesaid, to be levied by Distress and Sale of the Goods and Chattels of such *Quaker* or *Quakers* so refusing or neglecting, as aforesaid, his and their Executors and Administrators, rendering the Overplus to the Owner of such Goods and Chattels (if any shall be) the reasonable Charge of making the said Distress, and of selling the said Goods and Chattels, being thereout first deducted and paid to the Party or Parties so complaining, as aforesaid: And if it shall appear to such Justices upon Oath, that no sufficient Distress or Distresses can be had or made for the Purposes aforesaid, then and in that Case any one of the said Justices, or any other Justice of the Peace of the same County, is hereby impowered and required, by Warrant under his Hand and Seal, directed to the proper Officers, to commit such *Quaker* or *Quakers* so refusing or neglecting, as aforesaid, to the common Jail of the County, City, Liberty, or Place, where such *Quaker* or *Quakers* shall reside, there to remain without Bail or Mainprize until full Payment be made to the Party or Parties so complaining, as aforesaid, of all such Sums and Costs as by the said two Justices shall have been awarded by such Order as aforesaid. And to the End the said Justices may be enabled to make such Adjudication as shall be just upon the Matters so to be complained of, as aforesaid, the said Justices are hereby impowered and required to examine all such Witnesses and other Persons, as shall be produced or convened before them, upon their corporal Oaths (which Oath, and all other Oaths required to be taken by this Act, the said Justices are hereby authorized to administer) but if any such Persons or Witnesses shall be a *Quaker*, then such *Quaker* shall be examined upon his solemn Affirmation, according to the Laws and Statutes of this Realm, and the said Justices shall cause the same to be tendered to him accordingly; and if any Person or Persons being so summoned, as aforesaid, to give Evidence touching the Matters complained of, as aforesaid, shall without just Cause refuse to appear before the said Justices, or having appeared before them shall refuse to be examined, or to testify or depose in Manner, as aforesaid, concerning the Matters so complained of, as aforesaid, and shall wilfully persist in such Refusal, then and in every such Case, all and every Person and Persons so offending, as aforesaid,

foresaid, contrary to the true Intent of this Act, shall for every such Offence, and being thereof convicted before the said Justices, forfeit a Sum not exceeding 5 *l.* to the Poor of the Parish or Parishes where such Tythes or Dues do arise, to be levied by Distress and Sale of such Offender's Goods and Chattels, by Warrant under the Hand and Seal of such Justices, or either of them, or any other Justice of the Peace within the County where such Offender shall reside, rendering the Overplus (if any shall be) to such Offender, his Executors, or Administrators.

And for the more effectual preventing all unnecessary and expensive Prosecutions against *Quakers*, be it further enacted by the Authority aforesaid, That from and after the said 24th Day of June, where any *Quaker* or *Quakers* shall refuse or neglect to set out, pay, or compound for any great or small Tythes, Oblations, or other Ecclesiastical Dues, as aforesaid (except Church Rates) no Person or Persons shall prosecute any Suit, or commence any Action, or file any Bill in any of his Majesty's Courts of Law or Equity at *Westminster*, or in any other Court whatsoever, for the Recovery thereof, until after Complaint shall be made by some of the Parties interested in the said Tythes or Ecclesiastical Dues, and some Adjudication or Order thereupon shall be made by the Justices, by this Act impowered to hear and determine the Matter of such Complaint, as aforesaid: And in case it shall appear by such Order and Adjudication, and the said Justices shall so certify therein (which the said Justices are hereby required to certify accordingly without Fee or Reward) that the *Quaker* or *Quakers* so complained of did not, at the Time of examining into, and hearing the Matter of the said Complaint, either by him or themselves, or by his or their Agents, controvert, litigate, or otherwise oppose the Payment of such Tythes, Oblations, or Ecclesiastical Dues, but did either confess the same to be due, or not gainsay or obstruct the Adjudication, or Recovery, and Levying thereof, or suffer Judgment or Sentence before the said Justices to go against him by Default, by not appearing to gainsay the Recovery and Levying thereof; then, and in every such Case, the Order, Award, and Adjudication so to be made by the said Justices, upon the Matters to them complained of, shall be absolutely final and conclusive to all Parties, as well to such as shall be interested in the said Tythes, Oblations, and Ecclesiastical Dues, as to the said *Quaker* or *Quakers*, to all Intents, Constructions, and Purposes whatsoever; and no *Quaker* or *Quakers* shall be sued or prosecuted, for or on account of such Tythes, Oblations, or other Ecclesiastical Dues, in any Ecclesiastical or other Court whatsoever after such Adjudication and Certificate, by Appeal or otherwise howsoever.

And no Libel shall be exhibited, or any Suit instituted or prosecuted in any Ecclesiastical Court, or any Action commenced, or Bill filed, in any of his Majesty's Courts of Law or Equity at *Westminster*, or elsewhere, touching or concerning the same; except only in Cases where the Title of such Tythes shall be in Question, as in this Act after is mentioned.

Provided always, and be it also enacted by the Authority aforesaid, That where any *Quaker* or *Quakers*, by themselves or their Agents, shall any ways controvert or litigate, or otherwise obstruct the Recovery of such Tythes, Oblations, or Ecclesiastical Dues before the said Justices, and the said Justices shall, upon Debate of the Matter, make such Order, Award, and Adjudication thereupon as to them shall seem just; and shall therein certify, whether any such Controversy, Litigation, or Debate was then had before them (which they are hereby required to certify accordingly without Fee or Reward) that then, and in every such Case, if either the Parson, Vicar, Curate, or other Person interested in, or intitled to, the said Tythes, Oblations, and Ecclesiastical Dues, or the *Quaker* or *Quakers* so complained of, and summoned, as aforesaid, shall find him or themselves aggrieved by the Order, Award, and Adjudication so to be made by the said Justices, as aforesaid; and shall thereupon within ten Days, after the Service of a Copy of the said Order, Award, or Adjudication, give Notice in Writing under his or their Hands to the said Justices, that he or they conceive him or themselves aggrieved, and that he or they refuse to abide by the Determination given by the said Justices, by the said Order, Award, or Adjudication; then and from, and immediately after such Notice, the said Justices shall surcease and forbear to make any Distress, or otherwise proceed upon such their Order, Award, or Adjudication, or otherwise howsoever. And then, and in that Case, it shall and may be lawful to and for all and every the Parties to resort to such Remedy by Suit, Action, or Bill, in any of his Majesty's Courts at *Westminster*, as he or they shall think proper to resort unto; either for the better Recovery of such Tythes, Oblations, or Ecclesiastical Dues, or for discharging himself from the Payment thereof. And all and every Person and Persons shall have and enjoy all and every the like Remedies, and shall be intitled to the like Actions, Suits, and Advantages, as well for the Recovery of such Tythes, Oblations, and Ecclesiastical Dues, and all Costs for substracting or withholding the same, as for the discharging him and themselves from the Payment thereof, in any of his Majesty's Courts at *Westminster*, in as full and ample a Manner as he and they might have had and enjoyed, or been intitled to.

to by the Laws and Statutes of the Realm, had not this Act been made. And his Majesty's Courts of Law and Equity at *Westminster* shall have full Power and Authority, if they shall see Cause (but subject to the Proviso in this Act after contained) to award such Costs as shall be reasonable for the Vexation, Expence, and Delay before the said Justices, by whose Adjudication the said Parties shall have conceived themselves aggrieved, as aforesaid; any Thing in this Act contained to the contrary notwithstanding.

And be it further enacted by the Authority aforesaid, That where any Decree or other Judgment shall be obtained in any of his Majesty's Courts at *Westminster*, Execution of such Decree or Judgment shall be made by Process directed to the Sheriff requiring him to levy the Money so decreed or adjudged upon the Goods and Chattels of the said *Quaker* or *Quakers*, his and their Executors and Administrators; and if the Sheriff shall return that he can find no Goods sufficient, whereon to levy such Money, then by Imprisonment of their Persons. And the said several Courts are hereby authorized and empowered to award such Execution in all Cases within the true Meaning of this Act.

Provided always, and it is hereby also enacted, That where any Judgment, Decree, or Order shall be made, passed, or pronounced in any of his Majesty's Courts at *Westminster*, in any Cause or Suit to be commenced or prosecuted by any Person, who shall conceive themselves aggrieved by the Award, Order, and Adjudication of the Justices hereby empowered to hear and determine any Complaint relating to any *Quaker* or *Quakers* neglecting or refusing to set out or pay such Tythes and Dues as aforesaid; that in every such Case, if the Sum ordered, enjoined, and directed to be paid by the said *Quaker* or *Quakers*, in Recompence of the Tythes by him or them withheld, shall not exceed the Sum before ordered and awarded by the Order, Award, and Adjudication of the said Justices to be paid by the said *Quaker* or *Quakers*, no Parson, Vicar, Curate, or other Person intitled to such Tythes or Dues as aforesaid, shall have or be intitled either to double or treble Value, by Virtue of the Statute made in the second Year of King *Edward VI.* or to any other Costs or Damages whatsoever, or to any other Sum in respect of his and their Charges or Expences in any or either of the said Courts, where such Judgment or Decree shall be obtained, given, or pronounced, or in any other Court or Place whatsoever; but that he and they shall be, and is, and are by this Act utterly excluded therefrom, and shall pay to such *Quaker* or *Quakers* his Costs to be assessed by the Courts wherein such Judgment or Decree shall be obtained; any Law, Statute, or Usage to the contrary in any wise notwithstanding.

Provided always, and be it enacted by the Authority aforesaid, that if any Person, thinking himself aggrieved by any Determination of the Justices, as aforesaid, shall thereupon give such Notice as aforesaid to the said Justices of his Refusal to abide by such Determination, it shall and may be lawful for such Person who shall first give Notice as aforesaid, to appeal from the same unto the Judges of Assize, who shall next hold the Assizes or Sessions for the County or Place, wherein such Determination shall be made, instead of having recourse to his Majesty's Courts at *Westminster*; and in that Case such Person shall give Notice in Writing of such his Intent to appeal, unto the Justices who made such Determination, before their Judgment shall be executed, and at least 8 Days exclusive before the holding such next Assizes or Sessions. And such Judges of Assize, or any or either of them, may and shall, in a summary Way, examine the Parties and Witnesses, in such Manner as the Justices are hereby directed to do; and may and shall hear, and finally adjudge and determine such Appeal, either by affirming, altering, or reversing the Judgment appealed from; and also give such Costs against either Party, as to him or them shall seem just and reasonable; and shall issue his or their Warrant, directed to the High Constable of the Hundred, or the Constable of the Parish or Place within any City or Town Corporate wherein such *Quaker* or other Person shall inhabit, to levy by Distress and Sale of the Goods of the Person against whom such Judgment shall be made, the Sum and Costs so adjudged by him or them, in like Manner as the said Justices to whom the said Complaint was originally made might have done, had there been no such Appeal. And in Case of such Appeal, either of the Justices, before whom such Complaint shall have been originally made, shall summon all such Persons to appear before such Judges of Assize, to give Evidence concerning the Matter of the said Appeal, as the Parties shall respectively require. And all Persons so summoned are hereby required to attend pursuant thereto, or in Default thereof (having no just Cause of Excuse to be allowed by the said Judges of Assize, or any or either of them) shall forfeit a Sum, not exceeding 5*l.* to the Poor of the Parish or Parishes where such Tythes or Dues do arise, to be levied by Distress and Sale of the Offender's Goods, by Warrant from any one of the said Judges of Assize, returning the Overplus, if any.

And be it further enacted, that from and after the said 24th Day of *June*, if any *Quaker*, after Notice given him by any Person intitled to predial Tythes, arising from Lands occupied by him, or by one authorized to receive

receive the same, shall refuse or neglect to set out, or cause to be set out, such Tythes, if payable in kind, and not otherwise, by Custom, Composition, or *Modus*, it shall and may be lawful for such Person intituled as aforesaid to such predial Tythes, to appoint a proper Person for that Purpose, who is hereby authorised to come upon the Land of such *Quaker* from whom such Tythe is due, and justly and truly, and without Fraud or Partiality, divide, set out, and sever from the nine Parts the said Tythe in such Manner as all Persons are by Law obliged to set out their respective predial Tythes; such Persons so appointed having first taken an Oath before any Justice of the Peace of the County or Place where such Tythes arise, justly to set out the said Tythes as this Act requires, according to the best of his Knowledge, without Fraud or Partiality: Which said Portion so set out is hereby declared to be, and shall be deemed as Tythe to all Intents, and shall be quietly carried away, as soon as reasonably and conveniently may be, by the Person intituled thereto, or any one or more Persons appointed by him for that Purpose, without any Interruption by the said *Quaker* or on his Behalf, in the same Manner as might lawfully have been done had such Tythes been set out by the *Quaker* himself from whom the same is due. And no *Quaker* shall after such Notice, and before the setting out, or after such Tythe shall be so set out, withdraw or take away, or cause to be withdrawn or taken away the said Tythes, if payable in kind, under the Pain of Forfeiture of the double Value of what shall be so withdrawn, or taken away, to be recovered against him by Action of Debt, Bill, Plaint, or Information in any of his Majesty's Courts at *Westminster*, in which no *Essoin*, Protection, Wager of Law, or more than one Imparance shall be allowed, in Case the Person intituled to such predial Tythes so withdrawn shall chuse to sue in any of the said Courts for the same. Nevertheless it shall be in the Option of the Person intituled to such predial Tythes so withdrawn, to waive the said Forfeiture of the double Value, and proceed before two Justices, as herein before directed, for Recovery of the single Value only of such predial Tythes so withdrawn, and Costs, if he shall think fit so to do. And in case the Person intituled to such predial Tythes shall proceed before the said Justices in Manner aforesaid, then and in every such Case such *Quaker*, so withdrawing or taking away the same, shall not be liable to be sued or prosecuted on Account of not setting out such Tythe, or carrying away the same, in any other Court, or in any other Manner whatsoever than as by this Act is directed.

Provided always, That if the Person appointed to set out the said Tythes shall, thro'

any wilful Default of the *Quaker*, be necessarily put to any unusual or extraordinary Trouble in harvesting and preparing the said predial Tythes, in order to the setting out the same, and over and above the setting out thereof, according to the Custom of the Place, that then upon Complaint thereof to any Justice of the Peace of the County or Place where such Tythes do arise, and Summons and Examination into the Matter by the said Justice, it shall and may be lawful for such Justice finally to order and appoint what shall be paid by such *Quaker* in respect of such unusual or extraordinary Trouble; and on Refusal of Payment, to levy the same by Distress and Sale of the *Quaker's* Goods, rendering the Overplus after the Costs of the Distress deducted.

And be it further enacted by the Authority aforesaid, That if any Person or Persons against whom any such Judgment or Judgments shall be had, as aforesaid, shall remove out of the County, Riding, City, or Corporation, after Judgment had as aforesaid, and before the levying the Sum or Sums thereby adjudged to be levied; the Justices of the Peace who made the said Judgment, or one of them, shall certify the same under his or their Hands and Seals to any Justice of the Peace of such other County, City, or Place, to which the said Person or Persons shall go, or be removed unto; which Justice is hereby authorized and required, by Warrant under his Hand and Seal, to order such Sum or Sums to be levied on the Goods and Chattels of such Person or Persons, as fully, and in the same Manner, as the other Justices might have done, if such Person or Persons had not removed, as aforesaid; which shall be levied and recovered according to the said Judgment.

And be it further enacted by the Authority aforesaid, That from and after the 24th Day of June, 1736, if any *Quaker* shall refuse to pay any Sum or Sums of Money duly and lawfully assessed or charged on him or her by any Church or Chapel Rater, it shall and may be lawful for any two Justices of the Peace, where such *Quaker* inhabits, and they are hereby required, upon Complaint to them made by the Church-wardens empowered to collect such Rate, to cause the same to be levied by Distress and Sale of the Goods of such *Quaker*, in the same Manner as the Rates for the Relief of the Poor may be levied: And no *Quaker* shall be sued or prosecuted, for not paying any Church or Chapel Rates, in any other Manner whatsoever.

Provided always, That no Distress to be taken by Virtue of this Act, shall be excessive or unreasonable; but shall be proportioned to the Value of the Sum awarded or forfeited; and the Goods distrained shall be publicly sold.

Provided also, and be it enacted, That where any *Quaker* or *Quakers* complained of for substraſting, with-holding, not paying, or compounding for any ſuch Tythes, Church Rates, Oblations, or other Eccleſiaſtical Dues, as aforeſaid, ſhall, before the Juſtices of the Peace to whom ſuch Complaint is made, alledge or inſiſt upon any Preſcription, Composition, or *Modus Decimandi*, Exemption, Diſcharge, Agreement, or Title, whereby he or ſhe is or ought to be freed from Payment of the ſaid Tythes or other Dues in Queſtion; and deliver the ſame in Writing to the ſaid Juſtices of the Peace, ſubſcribed by him, her, or themſelves; in that Caſe, the ſaid Juſtices of the Peace ſhall forbear to give any Judgment in the Matter; and that then and in ſuch Caſe, the Perſon or Perſons ſo complaining ſhall and may be at Liberty to prosecute ſuch *Quaker* or *Quakers*, for the Matters aforeſaid, in any Court or Courts whatſoever, where ſuch Perſon or Perſons might have ſued for the ſame before the making of this Act, any Thing in this Act contained to the contrary notwithstanding.

Provided always, and be it further enacted by the Authority aforeſaid, That in all Cities and Towns Corporate where, for the Time being, one Juſtice of the Peace only ſhall be reſident; in every ſuch Caſe it ſhall and may be lawful to and for ſuch one Juſtice, together with any one Juſtice of the Peace of the County (not Patron, nor intereſted) to execute all the Powers, Directions, and Authorities in this Act contained and directed to be done by two Juſtices of the Peace; and in caſe no Juſtice of the Peace ſhall be reſident in ſuch City or Town Corporate, then two Juſtices of the County may execute all ſuch Powers, Directions, and Authorities.

And be it further enacted by the Authority aforeſaid, That ſo much of the herein before in part recited Acts, made in the 7th and 8th Year of the Reign of his late Maſteſty King *William III.* and in the firſt Year of his late Maſteſty King *George I.* as relates only to the Recovery of Tythes or Rates, or any cuſtomary or other Rights, Dues, or Payments belonging to any Church or Chapel, which of Right by Law and Cuſtom ought to be paid for the Stipend or Maintenance of any Miniſter or Curate officiating in any Church or Chapel, in the Manner thereby provided, ſhall be, and is hereby repealed.

And be it further enacted by the Authority aforeſaid, That it ſhall and may be lawful for any Perſon ſued or prosecuted for any Thing done purſuant to the Directions of this Act, to plead the general Iſſue; and on that or any other Iſſue to give this Act, and the ſpecial Matter in Evidence: And if a Verdict or Judgment ſhall be for the Defendant, or the Plaintiff ſhall be nonſuit, or diſcontinue ſuch Action, the Defendant ſhall recover tre-

ble Coſts in ſuch Manner as Coſts in other Actions given to Defendants are recoverable: And no Suit or Proſecution ſhall be commenced againſt any Perſon for any Thing done in Purſuance of this Act, unleſs the ſame be brought or commenced within fix Months after ſuch Cauſe of Action ariſes.

A And be it further enacted by the Authority aforeſaid, That this preſent Act ſhall be deemed, and is hereby declared to be a publick Act, and ſhall be taken Notice of as ſuch by all Judges, Juſtices, and other Perſons whatſoever, without ſpecially pleading the ſame.

Proceedings on the Bill in the H. of Lords, and DEBATE on the Motion for committing it.

B This Bill was read in the Houſe of Lords a firſt Time, and ordered to be read a ſecond Time on May 12. and many Petitions having been likewiſe preſented againſt it to that Houſe, the Petitioners were ordered to be heard by their Council upon the ſecond Reading, and it was ordered that Council ſhould alſo be admitted to be heard in favour of the Bill at the ſame Time.

C Accordingly on the 12th, the Bill was read a ſecond Time, and the Council for and againſt the Bill were in part heard; on which Occaſion a Queſtion aroſe about the Proofs to be laid before the Houſe by the Council for the Bill, in relation to the Hardſhips and Perſecutions the *Quakers* had ſuffered by tedious and expenſive Suits for Tythes in the Eccleſiaſtical and other Courts; for the Council for the Bill having acquainted the Houſe, that with reſpect to Proſecutions in the *Exchequer*, they could bring proper and legal Proofs, to wit, Copies of the Records which had been duly examined, and would be proved at their Lordſhips Bar to be true Copies; but with reſpect to the Proſecutions in the Eccleſiaſtical Courts, they had indeed Proofs, but they were ſuch as they could not call legal Proofs, becauſe it was only the parol Evidence of Perſons who had been concerned in the Suits; and therefore they muſt ſubmit to their Lordſhips whether they would allow any ſuch Proofs to be laid before them; upon which there was ſome Debate in the Houſe, and the Queſtion being at laſt put, it was carried in the *Negative*.

E Next Day the Council for and againſt the Bill having finiſhed, and being withdrawn, a Motion was made for committing the Bill; whereupon a very long Debate enſued, in which the Arguments for the Motion were to the Effect as follows, *viz.*

G My Lords, I believe it will be admitted by every Lord in this Houſe without any Exception, that Perſecution of any Kind is inconſiſtent with the Principles of Chriſtianity; I am ſure it muſt be admitted by all, that it is inconſiſtent with the Nature of our Conſtitution.

stitution and Government; and it must be granted, that every sort of Punishment, every Sort of Oppression, which a Man is subjected to, for not doing that which in his Conscience he thinks unlawful for him to do, is a Sort of Persecution. We know, my Lords, it was once established as a fundamental and necessary Article of the Christian Faith, that Tythes were due of divine Right to the Church, that it was a most damnable Sin to convert them to any other Use, and that as they were *inter Spiritualia*, every Dispute in relation to them, was to be heard and determined by the Spiritual Courts, and by them only. These Doctrines, 'tis true, are now pretty much exploded, at least in this Kingdom; but ridiculous as they are, they were for many Years strenuously insisted on and most industriously spread, which gave Occasion to that Sect of Men called *Quakers* to establish it as one of the Articles of their Faith, That Tythes were abolished by the Christian Doctrine, and that so far from being of Divine Right, it was inconsistent with Christianity either to exact them, or pay them: From hence it is that every Man who is truly and sincerely a *Quaker*, is in his Conscience convinced, that it is unlawful for him to pay Tythe.

But unluckily, my Lords, for the *Quakers*, those who were the Patrons and chief Promoters of the Reformation in these Kingdoms, tho' they abolished the Doctrine, that Tythes were due of Divine Right to the Church, yet as the Tythes brought in a great Revenue, and as it was a Tax the People had been long accustomed to, they thought it very proper and mighty convenient for them to continue the Tax; therefore they made them due by the Laws of the Land, tho' they admitted they were not due by the Laws of the Gospel. This however was no Salve for the tender Consciences of the *Quakers*; for as those Laws made the Tax still payable as Tythe, they thought, they could not in Conscience voluntarily comply with what was enjoined by such Laws; and even to this Day, tho' they must admit that Tythes are due by the Laws of the Land, yet they think they cannot in Conscience pay them, till they are compelled by the Law so to do. I confess, my Lords, this appears to me a little whimsical; but I am not to measure another Man's Conscience by my own, nor ought I to oppress him because he makes a Matter of Conscience of an Opinion which I take to be whimsical; and if I ought not myself in such a Case to be guilty of Oppression, I am sure I ought to prevent another's being guilty of it, as far as lies in my Power.

Tythe, my Lords, is a Tax which is now due by the Law of the Land, and must, I believe, remain so, therefore the *Quaker* must pay it as well as every other Man subjected to

it by Law, nor does he desire to be absolutely free from it; he only desires, since his Conscience will not allow him to pay it voluntarily and freely, that you would take it from him in the easiest and least expensive Method you can: He knows that he must pay the Costs of every Suit commenced against him for the Payment of that Tythe which is due by Law, and he only desires that the Costs of Suit may be as easy as possible. This was thought so reasonable a Demand, that a Law was made in the Reign of K. William, by which Tythes not exceeding 10*l.* in Value were made recoverable from *Quakers* before the two next Justices of the Peace of the same County, not interested in the Tythe to be so recovered; and it was at that Time expected, that every Man in the Kingdom intitled to Tythes, would have taken that easy Method of recovering his Tythes from *Quakers*; but it has since been found by Experience, that some Persons intitled to Tythes, from a Spirit of Persecution and Oppression, for I can call it nothing else, have had recourse to Ecclesiastical and other expensive Courts for the Recovery of those Tythes, which they might have recovered by the Sentence of two neighbouring Justices, by which the poor *Quaker* has often been compelled to pay, not only what was due for Tythe, but ten Times more by way of Costs of Suit, to the utter Ruin of him and his Family.

'Tis true, my Lords, we are not furnished with all the Proofs, we might have had of such Oppressions having been committed; tho' I am convinced, if the *Quakers* had thought such Proofs necessary, or if we had allowed them to lay before us the Proofs they had prepared, we might have been furnished with a considerable Number; but suppose we had not one Proof of any such Oppressions having ever been committed, suppose there had never been a Surmise of any such Oppression, it is certain, that, as the Law stands at present, such Oppressions may be committed; and as it is our Duty to endeavour to prevent as well as punish all manner of Oppression, we ought to make some Alteration in the present Laws relating to the Recovery of Tythes, especially considering how apt some People are to oppress and persecute those who dare to differ from them in any Opinion. When we are about to make or repeal any Law, in order to prevent a Grievance that may be apprehended, it is no way necessary for us to have any Proofs that the Grievance has been actually felt. When the Law *de Hæretico Comburendo* was repealed, there were then no Proofs before either House of Parliament, that a bad Use had been made of that Law; it was thought sufficient that a bad Use might be made of it, and as that was apparent, the Law was therefore repealed. Even last Session, when the Law was made

for regulating the quartering of Soldiers at the Time of Elections there was not so much as the least Surmise of any Grievance having arisen from thence; and this very Session, when we passed the Bill for repealing the Laws against Witchcraft, there was not the least Proof so much as desired, that ever any old Woman had been burnt for a Witch. From all which it is plain, that, in order to prevail with either House of Parliament to pass or repeal any Law, it is sufficient to shew that a Grievance may ensue, if the Law be not passed or repealed.

Now, my Lords, in the present Case, it is no Persecution or Oppression to take from the *Quaker* in the easiest and least expensive manner those Tythes which are due by Law; but when they can be recovered without subjecting him to any great Expence or Inconvenience, it is Persecution as well as Oppression to sue for them in such a Way as must necessarily load him with a prodigious Expence; because tho' the Plaintiff may perhaps call his Refusal Obstinacy, yet in Charity we are obliged to call it Conscience; and therefore we must call that a persecuting of him for Conscience sake, which the Plaintiff may perhaps call a punishing of him for his Obstinacy. By the first Law for making Tythes recoverable from *Quakers* before two neighbouring Justices in the Country, a cheap and easy Method is provided for the Parson to recover those Wages, or that Maintainance which is due to him by Law; and this Method has been found so effectual, that every wise and good natured Parson in the Kingdom has always chosen it, because he found he could thereby come speedily at his Right, without vexing and ruining his Neighbour, the *Quaker*, by a tedious and expensive Suit for that which his Conscience would not permit him to pay till he was compelled by due Course of Law: But the Method by that Act provided appears to be deficient in two Respects; first, that it does not allow any Tythes above the Value of 10*l.* to be recoverable before two Justices; and the other, that it leaves to the Incumbent or any other Person intitled to Tythes, an Option to prosecute for the Recovery of his Tythe either in this cheap and easy Method, or in the most vexatious and expensive Method he can think of. As to the first of these Defects, it has been deemed, and I think it is evident, that two neighbouring Justices of the Peace are as capable to settle and ascertain a Claim of 100*l.* as they are one of 10*l.* providing there be no Matter of Law or Right in Dispute; and since in our Supreme Courts the Value of any such Claim is always settled and ascertained by Juries, I cannot think but that two or more neighbouring Gentlemen who have the Honour to be in the Commission of the Peace, are as capable to settle and ascer-

tain such a Claim, as any 12 Tradesmen or Farmers in the County; for this Reason all Tythes due from *Quakers* have since been made recoverable before the Justices of Peace: But as to the other Defect it stands as yet unremedied, and I must call it an intolerable one; for to leave to every Incumbent, or other Person intitled to Tythes, an Option to prosecute in the most vexatious and expensive Way, whenever he pleases, is the same with giving him a Power to oppress or persecute his Neighbour when he has a Mind: When this Power is made use of against a Neighbour who is not a *Quaker*, it must even then be called Oppression; when it is made use of against a Neighbour who is a conscientious *Quaker*, it is downright Persecution; and therefore, my Lords, I must say, that I am surprized, to find, that this last Defect has not been remedied long before this Time: I must say, we are extremely obliged to the People called *Quakers*, for making us observe a Defect in our Laws, which perhaps has occasioned, but certainly may occasion a great deal of Oppression and Persecution; and now that it has been laid before you, I cannot doubt but that your Lordships will unanimously concur in contriving some Method for remedying the same.

The Scope and Design of the Bill now before us, is for remedying both this last Defect in the most effectual and safe Method that can be thought of; and for obliging all Men intitled to Tythes for the future, to take that Method of recovering them, which every wise and good-natured Man has taken ever since it was established. I do not know, my Lords, but the Bill as it stands at present, may have Occasion for some Amendments; whatever Amendments it may stand in need of will best appear in the Committee; and considering that we shall there have the Assistance of the Reverend Bench, as well as the two learned Lords whom we have now the Happiness to have amongst us, I am convinced we may be able to make such Amendments in the Committee as will render the Bill as effectual and perfect as the Design of it is necessary and Christian. For this Reason I shall not now trouble your Lordships with any of those Amendments I may think necessary, but shall only move for the Bill's being committed.

To this it was answered in Substance as follows, *viz.*

Whether the Tythes payable to the Church be of Divine Right or no, is a Question, my Lords, which cannot any Way be brought into the Dispute now before us; but as there is at present among us a Set of Men who pretend to make it a Case of Conscience, that they ought not to pay Tythes, and as it has been said that the Divine Right of Tythes was once strongly insisted on, and consequently that they ought not to be sued for in any Court

Court but the Spiritual Court, I may, I think, suppose a Set of Men who made it a Case of Conscience not to sue for their Tythes in any Courts but the Ecclesiastical: Now if there were any such Set of Men amongst us, I should be glad to know how we should manage between the tender Conscience of the *Quakers* of one Side, and the tender Conscience of these Divine Right-men on the other; for I must think that it would be as great Persecution to take from a Man all Means of recovering his Property, except that which he pretended he could not in Conscience make use of, as it would be, to leave to a Man a Freedom of suing in that Way which he might think more effectual for recovering his Property from another, who pretended that he could not in Conscience part with it till compelled by due Course of Law. I do not know, but some of those who are now for shewing so great a Regard for the tender Conscience of the *Quakers*, would be very apt to call the pretended Conscience of these Divine Right-men a most ridiculous Obstinacy: They would probably say, that if these Men had a Mind to remain so obstinate as not to sue for their Property in that Method which the Law prescribed, they deserved to lose it; and, indeed, I should be very apt to join in the same Opinion.

I am for Liberty of Conscience as much as any Lord in this House, I shall always be against persecuting or oppressing any Man either in his Person or Property, on Account of any Dispute or Opinion in which Conscience can have a Concern; but Conscience can have no Concern in any Thing but Matters of Faith or religious Worship: It can never be brought in Justification of an immoral Action, and much less can it be pretended in any Affair that relates only to Property. If Conscience could have any Thing to do in the Case now before us, I am sure it is so far from being with the *Quakers*, that it is directly against them. No Man will now pretend, at least in this Kingdom, that Tythes are due of Divine Right to the Church; but no Man can doubt of their being due by Law to the Person who has got a Right to them. The Incumbent has generally by Law a Right to the Tythes within his Parish, he has as much a Property in them as any Man in the Parish has to the Estate he enjoys; and if a *Quaker* be in Possession of that which is by Law the Property of the Incumbent, he is certainly in Conscience bound to deliver it to the right Owner; and if he refuses, the Proprietor ought to be left at Liberty to sue for his Property so with-held, not only in that Manner which may be most effectual for recovering it upon that Occasion, but in that Manner which may be most effectual for preventing his being put to the like Trouble on any other; for it must always be a Trouble to a

Man to be obliged to sue for his Property, and we know that upon such Occasions, besides the Trouble, a Man is generally put to a greater Expence than he recovers by any Costs of Suit that can be given him. This, my Lords, is so true, that most Men chuse rather to give up a small Demand than to be at the Pains and the Expence of suing for it; and this is so well known to those from whom such Demands are due, that nothing but the great Expence they may be put to prevents their standing the Suit; which Terror would be entirely removed from the *Quakers*, if this Bill should pass into a Law; from whence we may conclude, that no one of them would then pay the least Tythe without a Law Suit, and what a terrible Thing would it be, to oblige every Incumbent in *England* to dance after the Justices of the Peace, and perhaps to the next Assizes, for every little Claim of Tythe he might have upon the *Quakers* within his Parish? Nay, I do not know but this Privilege of vexing and perplexing the Incumbent with Impunity, in order to make him give up his just Demand, would make most of his Parish turn *Quakers*; for tho' a proper Indulgence ought to be granted to *Dissenters* of all Denominations, yet it is certainly dangerous, and inconsistent with all the Maxims of true Polity, to grant to any of them a Privilege or Advantage which is not enjoyed by those of the Established Church.

As all Pretences to a Divine Right with respect to Tythes are now given up, as no Man ever pretends to demand them, or to sue for them, by Virtue of any Divine Right, they are to be looked on as a Tax or a Rent due to those who have got or purchased the Right to them; and for a Man to pretend that his Conscience will not allow him to pay a Tax or a Rent which is established by the Laws of his Country, is, in my Opinion, a most ridiculous Pretence; but it is still more ridiculous for a Man to pretend that his Conscience will not allow him to pay such a Tax, and yet apply to Parliament for a new Method, for for any Method, of compelling him to pay such a Tax. It is a Sort of Juggle, a Sort of playing with Conscience, which ought not to be countenanced by the Legislative Power of any Kingdom. The Scruples of a tender Conscience will always, I hope, be greatly regarded by this House, when they are founded upon any Thing of a religious Nature; but to with-hold from a Man his Property, to refuse paying a Tax or a Rent established by the Laws of the Kingdom, and to pretend a Scruple of Conscience for so doing, is what can have no Foundation in Religion. If the *Nonjurors* should pretend they could not in Conscience pay Taxes to this Government, they might perhaps be as sincere in that Scruple of Conscience, as the *Quakers* are

are in the Scruple of Conscience they pretend with respect to the Payment of Tythes; and as Governments have been said to be *Jure Divino* as well as Tythes, they might claim the same Pretence for making it a Scruple of Conscience; but such a pretended Scruple of Conscience would be so far from deserving any Countenance or Indulgence from this House, that it ought, and certainly would be looked on as seditious; and therefore an Application from them for an easy and cheap Method of compelling them to pay those Taxes, which they pretended they could not in Conscience pay voluntarily and freely, would certainly be treated with the utmost Contempt. Yet in this Case the Conscience of the *Nonjurors* seems to have a greater Concern than the *Quakers* can pretend to with respect to Tythes; for our Taxes are exacted from every Man as legally imposed and justly due, which no Man can admit who does not acknowledge the Government, whereas Tythes are never pretended to be exacted as due by Divine Right, they are exacted as due by the Law of the Land only, which is what no *Quaker* pretends to deny.

That two Country Justices are as capable of settling and ascertaining a Claim of 100*l.* as they are one of 10*l.* may perhaps be granted; and that two or more Gentlemen, who have the Honour to be in the Commission of Peace, may be as capable to settle and ascertain such a Claim as any 12 Tradesmen or Farmers in the County may likewise be true; but this Argument will operate much further than is now designed; for the same Argument may be made use of for taking from the King's Courts, and transferring to the Justices of the Peace, the Cognizance of every Cause where no Matter of Law or Right is concerned, which none of your Lordships would, I believe, agree to. It is no Reflection upon the Justices of Peace in general, or upon any Justice of Peace in *England* in particular, to say, that there is more Reason to suspect them of Partiality, than there is to suspect the Judges of the supreme Courts of Equity or Law. Men are naturally partial in Cases where their Friends, their Relations, or even those of their intimate Acquaintance, are concerned: This is a Weakness incident to human Nature, and so well known to the Legislature of this Kingdom, that we have an express Act of Parliament for preventing any Man's being a Justice of Assize in the County where he was born, or doth inhabit; for this Reason Care has always been taken by our Laws, to give a Cognizance to Justices of small Causes only; because in them it cannot be supposed that Persons are often concerned who may be related to, or acquainted with any of those Gentlemen who have the Honour to be in the Commission of the Peace; and the Sollicitations, which are of late too

much countenanced by some Justices, can give no great Encouragement to the Legislature, to extend their Jurisdiction. We ought to consider that every Tythe is a Rent annually coming due, and as the Determination with respect to the Rent of one Year, may be look'd on as some Sort of Precedent or Rule for determining the Value of that Rent in every succeeding Year, the Value of the Cause or Suit is to be computed from the Price that Rent might be sold for; therefore as Tythes are generally sold for 30 Years Purchase, the Value of a Suit for a Tythe of 10*l.* Value, is to be computed at 300*l.* so that if the two Justices the Incumbent applies to should deal partially, and give him but 5*l.* instead of 10*l.* the Damage they do him must be computed at 250*l.* for tho' he should in the next Year, get a new Decree for 10*l.* for that Year, this new Decree may in a great Measure repair, but does not lessen the Damage that was done him by the first; and therefore, tho' Tythes of any Value due by *Quakers* may now be recovered before the Justices; yet I must think it would be very wrong to confine the Incumbent to that Method only.

'Tis true, my Lords, that in our supreme Courts, when the *Quantum* or Value of the Tythe demanded comes in Question, that *Quantum* or Value is generally settled and ascertained by the Verdict of a Jury; and if the Jury-men were under no Direction, nor could have any Assistance from the Court, two or more Justices might perhaps be as capable to settle and ascertain that *Quantum* or Value as a Dozen of Jury-men; but as the Jury-men always have the Assistance of the Court in the Examination of the Witnesses, and generally take the Direction of the Court with respect to what may or may not be deemed a proper and full Proof, and as the Jury-men are seldom known, or can be solicited and influenced by either Party, I shall always think my Property more secure when tried in a proper and legal Manner by a Jury, than when I am subjected to the arbitrary Decision of any Number of Justices of the Peace; and I believe every Man in *England* is of the same Opinion. It has always been reckoned that our Method of Tryal by Jury is the great Barrier and the chief Safe-guard for the Properties of the People of *England*, and why we should at once deprive all the Clergy of the established Church of that Barrier and Safe-guard, with respect to a great Part of their Properties, I can see no Reason: I must confess the very Attempt appears to me in a most extraordinary Light; especially when I consider that we owe the Preservation of our Liberties as well as Properties, in a great Measure, to the noble Stand made by them against the Incroachments that were made upon both immediately before the Revolution; from whence they have, I think, the strongest Reasons

Reasons to expect, that no Safe-guard for their Properties will be taken away by that Government, which chiefly owes its Establishment to their Behaviour, at a Time when the Properties of all but themselves were in danger; for, by a slavish Compliance at that Time, I believe it will be granted they might have increased, instead of diminishing, the Property of the Church in this Kingdom.

To alter the known Laws of the Kingdom, or the ancient Methods of Proceeding in our Courts of Judicature, I shall always, my Lords, look upon as a most dangerous Experiment, and therefore I shall never give my Consent to any such Alteration, for the Sake only of a Possibility, that some ill Use may be made of the Laws as they then stand. In such Cases, I shall always think it necessary to see from the most clear and evident Proofs, that some bad Use of them has been made, that some Grievance has been generally and sensibly felt; and as the Laws now in being, and the Methods of proceeding for the Recovery of Tythes, have been for a long Time established, I shall never give my Consent to any Alteration, and much less to such a thorough Alteration, or rather Subversion, as is proposed by the Bill now before us, without a full Proof that great Inconveniencies have arisen from the Laws and Methods of proceeding as they stand at present. This, I think, is absolutely necessary upon all such Occasions, but more especially in the present, where the private Property of so great and considerable a Part of our People is highly concerned; this the *Quakers* might easily have foreseen would be wanted; and the Question that arose about it in the other House, ought to have been a Warning to them to provide for it; in case it should come to be wanted in this; for tho' the Question was carried in the other House against the Necessity of having any such Proofs laid before them, it was not from thence to be concluded that this House would be of the same Opinion: In a Case of such a high Nature it was ridiculous to imagine that we would admit of any parol Evidence; for if we had, it is certain we could from such Evidence have heard only the Tattles and Observations of Attorneys and Lawyers Clerks, we could not have made any Judgment of the Vexatiousness of the Proceedings, nor could we have judged whether the Delays and Expences had been owing to the persecuting Spirit, as it is called, of the Plaintiff, or to the Litigiousness of the Defendant; of this we can form no Judgment but from authentick Records; and therefore those who intended or expected the Bill should pass, ought to have had them prepared and ready to lay before us.

I must take Notice, my Lords, that the Bill for regulating the quartering of Soldiers at the Time of Elections, was not an Alteration of any of our known Laws, nor of any

of our ancient Forms of Proceeding; on the contrary, it was not so much as a new Law: It was only a Declaratory Act, for declaring and enforcing that which was before the Law of the Land; and therefore there was no Necessity or Occasion for any Proof, or indeed for any Surmise, that a Breach had been made of that which was before the Common Law of the Kingdom. But with respect to the Repeal of the Act *de Hæretico Comburendo*, or of that for the burning of Witches, I am surprized to hear the Repeal of either mentioned upon this Occasion; for surely it is neither so ridiculous, nor so cruel, for a Clergyman to sue a *Quaker* in the King's Courts, or even in the Ecclesiastical Courts for his Tythes, as it would be to burn a *Quaker* for a *Heretic*, or an old Woman for dealing with the Devil. These were two Laws which never could be used without being abused, nor could the private Property of any Man in the Kingdom be injured by the Repeal of either of them; whereas the Method of suing for the Recovery of Tythes in the King's Courts, or even in the Ecclesiastical Courts, may not only be used without being abused, but often becomes necessary, because the Tythes so sued for cannot be recovered in any other Way; and the Repeal of all those Laws by which those Methods of suing are established, is a Repeal by which the Property of a very great Number of our most useful Subjects may be injured.

To imagine, my Lords, that we can contrive and prescribe an effectual Method for recovering any sort of Property, which cannot possibly be oppressively and vexatiously used, is an Imagination in which I am afraid, we shall always find ourselves disappointed. We may indeed, take away all effectual Methods, and leave it entirely to the Justice and good Will of the Debtor, whether he will pay what he owes, or of the Person who has got the Possession of another's Property, whether he will restore or no, which seems to be the Intention of the Bill now under our Consideration; but it is impossible to prescribe by Law an effectual Method which may not sometimes be vexatiously, or even oppressively used: It is the Business of the Courts of Judicature to prevent Oppression and Vexation as much as they can, and they do always punish it when discovered by loading the oppressive or vexatious Party with Costs. When the Costs of any Suit run high, we are not always to ascribe it to the Oppression or Vexation of the Plaintiff, on the contrary, the Costs of Suit are generally enhanced by the Obstinacy and Litigiousness of the Defendant. There is no Suit can be commenced for settling the *Quantum* or Value only of Tythes, where the Costs can amount to a very great Sum, unless they are enhanced by the Litigiousness of the Defendant; and in Suits for Tythes, as well as in all

all Suits for other Demands, the Defendant may prevent his being loaded with any future Costs, by consigning what is due; for if the Plaintiff can prove no greater Sum due than what was so consigned, he can recover none of those Costs he has put himself to by his own Litigiousness. It is generally therefore the Perverseness or the Neglect of the Defendant that enhances the Costs of Suit; and notwithstanding all the Clamours raised about the excessive Costs *Quakers* have been loaded with, I believe, if we were to examine the Records, we should find most of these excessive Costs owing to the same Cause.

As the Laws stand at present, the Incumbent has several Ways for recovering his Property. He may sue in the Ecclesiastical Court, or he may recover by filing a Bill in the *Exchequer*, or he may bring his Action upon the Statute, or lastly, he may bring his Complaint before the Justices of Peace, if his Claim be under 40*s.* or for any Sum due by a *Quaker*: Now to take from him all these Remedies but the last, which is the most ineffectual, I take to be such an Incroachment upon his Property, that I cannot agree to it, without some other and stronger Reason, than the meer Possibility that he may make a bad Use of the other Remedies provided for him by Law; especially considering that it seems to me evident, that no bad Use has been hitherto made of those other Remedies; for if we consider the Multitude of *Quakers* that are in this Kingdom, the Obstinacy wherewith they refuse to make any voluntary Payment of Tythe, and the natural Partiality which every Justice of the Peace must have against Tythes, it is surprising to me that so few Instances can be brought in a Course of 40 Years, of any Suit in the Ecclesiastical or Superior Courts for those Tythes which might have been recovered before the Justices of Peace; and if we were to examine into the Reasons for bringing any such Suits into the Ecclesiastical Court, we should probably find they no Way proceeded from a Spirit of Persecution, but from an Impossibility of recovering before the Justices, or perhaps from the preceding Behaviour of the *Quaker*; for if an Incumbent should endeavour to recover his Tythe from a *Quaker* by a Complaint to the Justices of Peace, and should there, by the Solicitation and Management of the *Quaker*, meet with Injustice and Partiality, he might probably for that Time acquiesce in the partial Determination of the Justices, but it would be a good Reason for him to prosecute the next Claim he might have upon that *Quaker*, in the Ecclesiastical, or in some of his Majesty's Courts of *Westminster-hall*.

This, my Lords, the *Quakers* know the Incumbent may do as the Laws stand at present, and this prevents their making use of

any Solicitation or other unfair Means of influencing the Determination of the Justices of the Peace in the Country; but if you take away this Option from the Incumbent, if you leave him no other Remedy for recovering his Right but a Complaint to the next Justices, and never allow him to enter the King's Courts, till he has passed this new Turnpike of the Law, we may then expect that the *Quakers* will use all possible Means, both with the Justices and the Witnesses, for defeating, or at least diminishing, the most just Demand that can be set up by the Incumbent; and considering that both his Judges and his Witnesses must always be Persons who are themselves liable to Tythes, it is I am afraid too much to be apprehended, that the Judges, the Witnesses, and the Defendant, will combine together in bringing the Complainant's Demand as low as common Decency will admit of: Nor can this Partiality be remedied or redressed by the Judges of Assize; for the Witnesses will there support and confirm what they have before sworn to before the Justices of Peace; and the Judges of Assize will often find the Evidence so contradictory, that they will be at a great Loss how to determine, or which Side to believe, being deprived of that Method of trying the Facts in Question by the Verdict of a Jury, which is the Method our Courts of Equity always have recourse to, when they find Witnesses swearing in flat Contradiction to one another.

I shall always be, my Lords, for lessening the Expences of Law Suits as much as possible, and for making the Recovery of Property as easy and expeditious as the Nature of such Suits can admit of: For this Reason, if the Bill now before us had answered the Title, I should have readily agreed to its being committed; but it is so far from answering the Title, that it will, in my Opinion, render precarious the Property both of Clergymen and *Quakers*; and it is really one of the most incorrect and confused Bills that was ever, I believe, sent up to this House. The King's Courts, and all other Courts, are to be for ever excluded taking any Cognizance of the Value of Tythes due by *Quakers*, and a new Sort of Jurisdiction with respect to them is to be given to Justices of Peace; but the Words by which this Jurisdiction is to be given are very extraordinary, these Justices are neither to order or decree as Judges, nor are they to award as Arbiters, but they are to adjudge, and yet there are no proper Powers given them for discovering what they are to adjudge; for if the *Quakers* should refuse or neglect to appear, what are the Justices in that Case to adjudge? Are they to adjudge whatever may be suggested to be due by the Complainant, or are they to adjudge only what he is able to prove? If they are to

to adjudge according to the Suggestion of the Plaintiff, the *Quakers* will be in a most dangerous Situation; for they may often have a Distress brought upon their Goods for a great deal more than is due, without their being apprised of a Complaint's having ever been made against them; and if the Justices are to adjudge only according to the Proof that may be brought by the Complainant, it may often be impossible for him to prove his just Demand by any Witness, nor can he, thro' the Defendant's Contumacy, prove it by the Oath or Confession of the Party; yet in this Case the Adjudication made by the Justices is by this Clause in the Bill to be absolutely final and conclusive to all Parties: Indeed by a following Clause, there is an unlimited and full Power given to any Person thinking himself aggrieved by any Determination of the Justices, to appeal from the same unto the Judges of Assize, and which of these Clauses is to be of the greatest Authority I do not know, for they are certainly inconsistent with one another.

As the Incumbent has but one Tenth, and the Farmer nine Tenths of the Crop upon the Ground; the Common Law, my Lords, and all our Statutes till this present Time, have most justly left the Care and the Management of the Whole to the Farmer; he may remove his Crop whenever he pleases, providing he leaves upon the Ground one Tenth for the Incumbent, and the Incumbent is to carry away his Tenth in a convenient Time; but by the Bill now before us, the whole Crop must depend very much upon the Care of the Incumbent or his Tything-man; for the Farmer being a *Quaker*, his Conscience will not allow him, as is pretended, to set out the Tythe, and therefore he must leave his whole Crop upon the Ground 'till the Incumbent or his Tything-man pleases to come and set it out for him; otherways he must forfeit the double Value; so that in this unsettled Climate he may often lose his whole Crop, in waiting for the Incumbent's Tything-man. But if the *Quaker's* Conscience should prompt him to disobey this new Law as well as the former; let us consider what Condition the Incumbent will then be in; he cannot file his Bill in the *Exchequer* for a Discovery as he might formerly have done, he can only bring his Action for the double Value; and if he can bring no Proof of the Value of the Tythe taken away, which is often the Case, how can he recover the double Value? If he chooses to bring his Complaint before two Justices of the Peace, his Case will be the same, the *Quaker* will not appear to be examined, and as the Incumbent can bring no Proof of the Tythe taken away, the Justices can make no Adjudication.

I must likewise take Notice, my Lords,

that this Tything-man, this new Judge that is by this Clause to be appointed, seems to be invested with a very arbitrary Sort of Power, and may not only be a Tythe-gatherer but a Tax-gatherer both upon the *Quaker* and the Incumbent; for he is made liable to no Control, nor to any Punishment, in Case he should deal unjustly or unequally in setting out the *Quaker's* Tythe; so that he may first induce the Incumbent to give him a Fee, by promising to take special Care of his Interest in setting out the Tythe, and then he may compel the *Quaker* to give him another Fee, by threatening that if he does not, he will take such a Method of setting out the Tythe as shall be very much to his Disadvantage: Such a Threatning must certainly be of great Weight with the *Quaker*, because if he should remove any Part of the Tythe so unequally set out by the Tything-man, he is made liable to an Action, I believe, for double the Value of the whole Tythe; and in case of such Injustice committed by the Tything-man, there is no Redress provided by this or any other Clause in the Bill. Let us consider, my Lords, that this Tything-man must generally be a Man of low Circumstances, and perhaps of as low a Character; and let us consider how apt such Men are to make use of any Power they are invested with, for raising Perquisites to themselves, especially where no Fee or proper Reward for their Service is appointed by Law; which I must take to be another Defect in the Bill; for the Tything-man ought certainly to be paid for his Trouble; and since the employing of any such Man is entirely owing to the *Quaker's* Scruple of Conscience, as it is called, I cannot think it reasonable that the Incumbent should be obliged to pay for the *Quaker's* Scruples; yet this is the Case as the Bill stands at present; for as the Tything-man is to be appointed and employed by the Incumbent, the Incumbent must certainly pay him for his Trouble.

This shews, my Lords, how dangerous it is to alter the established Laws of a Country, how difficult it is to form any new Law which may not expose some Men to great Hardships and Inconveniencies. I could point out many other Imperfections in the Bill now before us: There is not any effectual Method prescribed for compelling Witnesses to appear either before the Justices of the Peace or the Judges of Assize; for as the Witnesses may often be such as have neither Goods nor Chattels, a Distress will signify nothing, and there is no Provision made for the Imprisonment of their Persons, or for subjecting them to any other Punishment in case of Contempt: But I need not enter further into Particulars; the Bill is not only defective in every Paragraph, but the whole Scheme of it is wrong; which, I believe, proceeded from the Method of making

ing it in the other House: A Bill was brought in there for the Purpose mentioned in the Title of this Bill; that Bill which was first brought in, (I think I may mention it, because it was printed) was even there acknowledged to be wrong, and therefore in the Committee they amended it in such a Manner as to make it, in a great Measure, a new Bill; this Hurry occasioned even that new Bill, which is the Bill we now have before us, to be extremely defective; and if we proceed in the same Manner, we may probably fall into the same Error; for I think it impossible to make a proper Bill of that we have now before us without altering the Whole, which, according to our Methods of Proceeding, cannot be done in the Committee; for as the Bill would then be a new Bill, it could not be pretended that such a Bill had been twice read, then committed, and after that read a third Time, which is the Method of passing Bills constantly observed in this House.

But suppose, my Lords, it were consistent with our Forms of Proceeding, yet considering that the Forms of Proceeding in so many of our Courts of Judicature, and such a great Part of our Law must necessarily come under our Consideration, I think it impossible to alter and amend this Bill, or rather to draw up a new Bill proper for the Purpose designed, either in the Committee, or in the short Time we have now to sit; at least for my own Part I declare my Incapacity, and therefore I hope I shall be excused from having any Hand in the Affair. For these Reasons I must think, that the referring of this Bill to a Committee, will be taking up the Time of this House to no Purpose, and therefore I must be against it.

The Reply was to this Effect, viz.

My Lords, as I am to declare myself in favour of the Bill now under our Consideration, from what has been said of the other Side, I think it incumbent upon me first to declare, that I have as great a Regard for the Established Church, and the Properties of the Clergy, as any Lord in this House, as any Man in the Kingdom can reasonably have; and if I thought any Thing in this Bill, would in the least injure the Church, or deprive the Clergy of the smallest Part of that Property which is due to them by Law, I should be for rejecting the Bill with the utmost Contempt. We all know, my Lords, or have heard of the noble Stand made by the Clergy of our National Church, against those Schemes of Arbitrary Power which were set up before, and were the Causes of the late happy Revolution; but I cannot think that the Properties of the Clergy of our Church, were then in any greater Security than those of the rest of their Fellow-sub-

jects: By a slavish Compliance they might, indeed, have greatly increased the Properties of another Church; but they could not so much as have preserved their own, or even their Lives without carrying that slavish Compliance so far as to betray that Church of which they had declared themselves Members, and abjure those Principles of Religion which they had undertaken and sworn to promote. We likewise know how firmly attached most of them, I hope all of them, are to the present happy Establishment; and for so being, they have certainly the strongest Reasons; for they may depend on it, that this Government will always support the Church in general, and will protect every one of them in particular, so far as may be reasonable or consistent with the Government of a free People.

At the same Time, my Lords, that I declare my Attachment to, and my Regard for the Church of England; I must declare my Good-will and my Charity towards those People called *Quakers*. I have always looked upon them as a most useful and a most innocent Part of our Subjects. Their universal Charity and Humanity, their great Care of all those of their own Persuasion, their private Oeconomy, Self-denial, and Industry, are Virtues which deserve the Regard and Imitation of all those of the Established Church: They contribute greatly to the Riches of the Kingdom by the Trade and Manufactures they carry on, they aspire to no Places of Honour or Profit, and they have never been, by their Profession they cannot be, concerned in any Disturbances raised against the State: For these Virtues, and for these Qualities, they must always deserve the Countenance of the Legislature; they surely deserve at least to be protected against all Manner of Oppression or Persecution: And with respect to their Behaviour at the Revolution, or ever since that Time, they stand upon an equal footing with any Set of Men in the Kingdom; but as no Virtues, no Qualifications, no Merit, can intitle them to injure any Man in his private Property, or to expect any Favours that may be inconsistent with the Safety of the Established Church, they do not now, nor ever did, pretend to sue for any such Thing: They only desire that that which is declared by the Laws to be the Property of another Man, may be taken from them, without loading them with heavy and ruinous Costs of Suit; because their Conscience will not allow them to admit that it does belong to another Man, or to deliver it till compelled by some Sort of Law Suit.

There is nothing, my Lords, in my Opinion, of a more tender Nature than Conscience; for if a Man begins once to take any Latitude, or use a Liberty in any one Affair in which he may think his Conscience concerned,

cerned, we generally find that he soon after begins to take the same Latitude, the same Liberty, in other Affairs of the same Nature; and at last he throws up Conscience entirely, in every Case where it seems to interfere either with his Interest or his Pleasure; for this Reason I shall always have a great Regard for those Men who shew a great Regard to their Conscience, even tho' it be in a Case where I may think the Scruple ridiculous, and that Conscience is not in the least concerned. I shall agree with the noble Lords of the other Side of the Question, that, in my Opinion, Conscience can have nothing to do but in Matters of Faith or religious Worship: It can never be brought in Justification of an immoral Action, nor can it be pretended in any Affair that relates only to Property; but I cannot see from whence I can pretend any Title to judge for another Man, what may, or may not be a Matter of Faith or religious Worship; what may, or may not be an immoral Action; or what may, or may not relate to Property only. In either of which Cases, if another Man's Opinion differs from mine; if he thinks his Conscience concerned in doing or not doing an Action in which I may think Conscience has no Concern, or that it is concerned upon the other Side of the Question, I think I have no Title to punish or persecute him for Conscience Sake: Nay, I think, if I should be in Danger of suffering, or should actually suffer by his Scruple of Conscience, I might endeavour to prevent my suffering, or I might insist upon Reparation, but I could have no Title to punish him for what his Conscience prompted him to do, or not to do; on the contrary, I should think myself obliged in Charity to endeavour to prevent my suffering, or to take my Reparation, by those Means which would be of the least Injury or Damage to my conscientious Friend. This, I think, is exactly agreeable to the Principles of Christianity, and the contrary Doctrine is that upon which all Manner of Persecution may be founded; because if I take the Liberty, or rather the Privilege to judge for another Man with respect to his Conscience, and to punish him as an obstinate Man, because he thinks himself obliged in Conscience not to do that in which I think Conscience can have no Concern, I may certainly upon the same Principle take the Privilege of punishing him for doing or not doing that, which I think he is in Conscience obliged to do or not to do; for if I can punish a Man for having too much Conscience, I may surely punish him for having too little.

Now, my Lords, with respect to the Case, or pretended Case of Conscience at present before us; I should have been glad to have heard it positively asserted by some of the noble Lords who have spoke upon the other Side of

the Question, that Tythes are not due by any Divine Right in the Church; because, I believe, such a positive Declaration would have given great Satisfaction to the *Quakers*; and would, I am sure, have rendered them less excusable: For my own Part, I am fully convinced, that Tythes are not due by any Divine Right either in the Church, or in any other Person Political or Natural; and should be glad to hear myself contradicted, because I am now ready to argue the Point. I know that no such Thing was pretended during the first Ages of Christianity: This Divine Right was not set up till the 8th Century; it was first set up in *France*, where the Abbots and Monks had got Possession of most of those Estates that had been appropriated for supporting the Parochial Clergy; and as those Priests were not willing to give up what they had got once into their Clutches, and were too powerful to be compelled, they first broached that Doctrine of Tythes being due by a Divine Right in the Church, in which the Government and other Priests found themselves obliged to join, because they had no other Way of providing for the Parochial Clergy, who are certainly of all Priests the most useful to Society. By this Means the Doctrine was soon established, and for a whole Century after, became the Subject of almost every Sermon, not only in *France*, but in every Country of *Europe*; so that one could hear nothing from the Pulpit but the Divine Right of Tythes, and the damnable Sin it was to deprive or defraud the Church of them. As it was at that Time dangerous to contradict or oppose the most ridiculous Doctrine that could be set up by the Priests, this, among many others, was generally received, and every landed Gentleman or Farmer paid Tythes out of every Sort of Produce from his Land, every Merchant paid Tythes out of the Profits of his Trade, every Tradesman and Mechanick paid Tythes out of the Profits of his or his Servants Labour, nay, the very Soldiers paid Tythes out of their Pay. Thank God, my Lords, we are not now in this Kingdom obliged to render an implicit Faith to what any Set of Men may tell us, and this Doctrine, with many others, has met with the Fate it deserves; but do not let us imagine it is as yet without Advocates, or even without Believers; and as long as there is one Advocate for it in the Kingdom, the *Quakers* ought at least to be excused for making the contrary Doctrine an Article of their Faith, and consequently a Matter in which their Conscience must have a Concern.

Whether there be now in this Kingdom any Person intitled to Tythes, who thinks they are of Divine Right I shall not pretend to determine; but I never heard of one who thought he could not in his Conscience see for

them in any Court but the Spiritual, when he thought he might meet with a more adequate or speedy Reparation from the Temporal. If there were any such conscientious Divine-Right-men amongst us, I must say, that, notwithstanding my being convinced that the Opinion is ridiculous, I should have as great a Regard as possible for their Scruple of Conscience, and would be very far from thinking that they ought to be persecuted or ruined, singly on that Account; but the Conscience of such a Set of Men, if there were any such, could be of no Weight against this Bill, or against a general Prohibition of bringing any Suit for Tythes into the Spiritual Court, because they might sell the Estates they had in Tythes; and it would be no great Injury either to them or the Publick, to disable such Persons from holding any Estate in Tythes; whereas it would be an Injury to the Publick, to disable all *Quakers*, or any Set of Men, from being Farmers, and it would be an Injury to every particular Man who had been bred to that Business.

We are not now to dispute the Property of Tythes, or in whom it is lodged; tho' I take it, that till they are set out, the Person intitled to them has only a Right to them, he has not till then a Property in them: However, this can make no material Difference, in the Case; for whoever thinks he owes any Thing to another, is as much obliged in Conscience to pay what he owes, as he that has got Possession of another's Property is in Conscience obliged to restore that Property to the right Owner; but the *Quaker* does not think he owes Tythe to any Man, nor does he think that any other Man can have a Property in any Part of the Produce of his Labour and Industry, therefore he does not think himself obliged in Conscience to pay or restore. Nay, since Tythes were at first pretended to from a Divine Right, and as such made payable by the Laws of this Kingdom, the *Quaker* thinks he cannot in Conscience voluntarily and freely comply with such Laws, because it would be at least a tacit Acknowledgment of that Doctrine upon which those Laws were founded.

I shall grant, my Lords, that a Person who from meer Obstinacy or Litigiousness refuses to pay till compelled by Law, deserves to be prosecuted in the most expensive Manner, in order to punish him with heavy Costs, and to terrify others from being guilty of the same Obstinacy or Litigiousness; but when a Person is unable to pay what is legally due, I say it is downright Oppression to sue for it in an expensive Way, when the Debt might be as effectually recovered in a cheap and easy Method; and if a Person refuses to pay what is legally due, because his Conscience will not allow him to pay till compelled by Law, it is downright Persecution to sue in an

expensive Way, when the Debt might be as effectually, and much sooner recovered by a cheap and easy Method. It is without doubt an Injury done to a Man to oblige him to go to Law for the Recovery of what is justly due, but with respect to the *Quaker* this Injury proceeds from a Scruple of Conscience, and therefore the Injured Person, if he be a Christian, will seek for Reparation in that Method which may be of least Damage to the conscientious *Quaker*. In his Case I ought neither to punish nor to terrify. If I punish, for what do I punish? I punish a Man for being conscientious. Is this just? If I terrify, for what End do I terrify? I terrify, in order to compel a Man to act contrary to his Conscience. Is this Christian? My Lords, no conscientious *Quaker* can pay Tythes without a Law Suit; and therefore the only Effect this Bill can have will be, that fewer *Quakers* will from henceforth be terrified by excessive Costs to do that which they cannot with a safe Conscience do. Is this an Effect to be dreaded? Is it not an Effect to be desired by every Man who professes himself a Christian?

It seems to be laid down as a Maxim by some Lords in this Debate, that the *Quakers* can have no Scruple of Conscience in paying Tythes, and upon this Maxim most of their Arguments have been founded; but, my Lords, I lay it down as a Maxim, that they have a Scruple of Conscience, and my Maxim is certainly the most charitable: I shall not say that their Scruple is well founded, or that it has any tolerable Foundation; but we have had many People burnt in this very Kingdom for a Scruple of Conscience much like this of the *Quakers*. The *Lollards*, many of them, were burnt for not paying the Tax called *Peter Pence*; yet that Tax was then due by the Laws of the Land as much as Tythes are now: however, those poor People thought they could not in Conscience pay it, and suffered, being burnt to Death, rather than get over that Scruple of Conscience: Surely they were in earnest; and I cannot think that a Man who suffers himself to be ruined and imprisoned, for the Sake of any Scruple of Conscience, can be in jest. If by some odd Turn in our religious Affairs, we should begin again to light up Sacrifices in this Kingdom, and should make a Law for obliging every Man to give the Firstlings of his Flock, or so much Money yearly, to his Parish Priest for that Purpose, I should not think him a very conscientious Christian that would voluntarily and freely comply with such a Law; so that there may be Cases supposed in which an Obedience to the Laws of the Land in the Payment of Taxes would really be inconsistent with good Conscience; and therefore, in Charity, we ought to believe that the *Quakers* are sincere

here in the Scruple of Conscience they pretend, with respect to the Payment of Tythes; for as they think that every Man who is capable, or who is moved by the Spirit as they call it, is obliged to preach the Doctrine of Christ, without Fee or Reward, they may, and they probably do think it as inconsistent with Christianity to preach for Hire, or to give Hire for preaching, as we would think it to sacrifice, or to give Money for Sacrifices. For this Reason, I am against persecuting them with heavy Costs; and for the same Reason, if there were in the Kingdom such *Nonjurors* as have been mentioned, as long as they did not any way disturb the Government, I should be for shewing all possible Regard to the Tenderness of their Conscience; I should be for taking the Taxes from them in the most easy and cheap Method that could be contrived: So far would I be from looking upon their Scruple of Conscience as seditious, or treating their Application with Contempt, that I should be for taking the Taxes from them in any Manner they could prescribe, providing it did not injure the Government.

Suppose then, my Lords, the *Quakers* are sincere in this Scruple of Conscience they pretend, let us consider the Condition they are in at present, and the Condition they desire to be in, in order to see whether they are now liable to any Hardships, or if what they desire can injure the Person intitled to their Tythes. From what I have supposed it must be granted, that no conscientious *Quaker* can pay Tythe till it is taken from him by Law, that is, by the Sentence or Decree of some Court: as the Expences in recovering this Sentence, and of levying the Tythe in Pursuance thereof, must all come upon the *Quaker*, and as this Expence must recur every Year upon him, it is evident that, if this Expence were large, every conscientious *Quaker* liable to pay Tythes would soon be undone: for this Reason a cheap and easy Method for recovering Tythes from *Quakers* has been provided: the Person intitled applies to the two next Justices, the *Quaker* does not contest the Demand, and by the Sentence of these two Justices the Person intitled takes his Tythe without putting himself or the *Quaker* to any great Trouble or Expence; and this Remedy has ever since been always made use of against *Quakers* by every good-natured Man in the Kingdom: but let the Tythe be ever so small, let it be but a Shilling, if the Person intitled be a Lawyer, or a cruel, avaricious, or malicious Man, he may on Account of that Shilling, which the *Quaker* cannot in Conscience pay voluntarily, put the *Quaker* to 20*l.* perhaps 100*l.* Charge; because he is not obliged to take the easy and cheap Method of recovering his Right before the two next Justices, but may have recourse to an expensive Suit in the *Exchequer*, or a more expensive one in

the Spiritual Court; and as these Demands for Tythe return every Year, it is plain that the *Quaker* must in a short Time either give up his whole Estate, or his Conscience. If the Person intitled to Tythe be a Lawyer, he will probably take this last Method for his Profit; if he be a cruel or malicious Man, he will take it for his Pleasure; and if he be an avaricious Man, he has from hence a most excellent Handle for obliging the *Quaker* to give him yearly a large Contribution, in order to prevail with him to take his Remedy for Tythe before the two next Justices of Peace. To this I shall add, that if the Person intitled to Tythe be a Clergyman, and one of a persecuting Spirit, he will probably for the Satisfaction of that Spirit, take this last Method, to the great Scandal of our Established Church. Nay, such a Man may probably, instead of taking the *Quaker's* Goods by Distress, take his Person in Execution, in order to compel him by Imprisonment to abjure his Religion, which would be a Method of converting your Lordships would not surely approve of.

Your Lordships must from hence see what an infinite Series of Oppression and Persecution the *Quakers* are subjected to by the Laws as they stand at present; and from this Oppression or Persecution no *Quaker* can free himself, but by giving up his Conscience, or giving up his Farm; the first, I am sure, no good Man will desire, the last would be a great Injury to the Publick as well as to the *Quaker* himself. After the Suit is once commenced, let it be in what Court it will, the *Quaker* cannot put a Stop to the Expence by consigning the Money due, as has been mentioned by a noble Lord of the other Side: That Consignation he must look on as a voluntary Payment of Tythe, and that his Conscience will not allow him to make. But besides, he may, and probably will be sued in the Ecclesiastical Court, which is a Court in which his Conscience will not so much as permit him to appear; it is a Court where no Man ought to be made to appear for the Recovery, or for the Defence of any Temporal Right: The very Sentence they pronounce, as it is a damning Sentence, I may beg Leave to call a most damnable Sentence: To pronounce such a Sentence is most unchristian: To excommunicate a Man for the Value of perhaps 4*d.* is terrible, and to imagine it has the Effects pretended, can proceed from nothing but a Belief in that *Antichristian* Power set up by the Church of Rome.

Having thus laid before your Lordships the Hardships the *Quakers* are exposed to, I shall next beg Leave to explain what I take to be the Intention of this Bill, for it seems to have been very much misapprehended. By this Bill it is proposed to be enacted, that

the Person intitled to Tythes, instead of suing for them in the Spiritual Court, shall bring his Complaint before two Justices of the Peace in the same County; and they are impowered and enabled to examine into the Affair by the Oath of the Party, by Witnesses or otherwise, to determine, award, and to levy the same by Distress and Sale of Goods, or by Imprisonment of the Person when sufficient Goods are not to be found; but if the *Quaker* appears before the Justices, and contests the Value of the Tythes in Dispute, in case the Justices should, by Mistake or otherwise, do an Injury to either Party, there are two Remedies provided, one of which is common to the Defendant, as well as Complainant, which is, that either of them may appeal to the Judge of Assize; but the other is for the Complainant only, and is such as he cannot, I think, make the least Objection to; for he is left at Liberty to take any one of the Remedies for the Recovery of his Tythe, to which he is now intitled, and is to have all his Costs in case he recovers more than was adjudged to him by the Justices: He may sue in the Ecclesiastical Court, he may bring his Action at Common Law, or he may bring his Bill in the *Exchequer* for a Discovery, in the same Manner as if this Bill had never been thought of; but if any such Action or Suit appears to be vexatious, by his not recovering any greater Value of Tythe than what was adjudged him by the Justices of Peace, he is then most justly, I think, to pay Costs to the Defendant. Then, as the *Quaker* can never in Conscience set out the Tythe himself, or cause it to be set out, and as the Incumbent may chuse to have his Tythe in Kind, which he cannot possibly have at present, there is this Remedy provided, a proper Person is to be employed by the Incumbent, who is impowered to enter upon the *Quaker's* Ground and set out the Tythe, which the Incumbent may then remove at his Pleasure.

By these Regulations your Lordships must see, that the *Quaker* will be let free from that Oppression and Persecution he is now exposed to: If this Bill passes, which I hope it will, he cannot hereafter be terrified into the making a Sacrifice of his Conscience, nor can an avaricious Incumbent oblige him to commute for such a Sacrifice, by bribing him not to prosecute in any expensive Court; and whether the Incumbent or any other Person can from these Regulations receive any Injury, will best appear by considering the Objections that have been made against them.

I do not know, my Lords, but there may be more Reason to suspect the Justices of Partiality than to suspect the Judges of his Majesty's Courts in *Westminster-hall*; but I do not think they can be suspected of more

Partiality than the Judges of Ecclesiastical Courts. However, suppose the Justices to be generally partial, what Reason can be assigned for their Partiality's being generally in favour of *Quakers*? There are many of them who are themselves Proprietors or Tax men of Tythes; and as the Complainant will always have his Choice of the whole Commission of the Peace for a County, he will certainly carry his Complaint before two Justices, upon whose Candour, perhaps upon whose Favour, he may with Confidence rely; so that if there is any Partiality to be apprehended, it may justly be suspected, that the Partiality will be oftner against than in favour of the *Quaker*. Then as no Complaint for Tythe is by this Bill to be determined by the Justices, if any Matter of Right be in Question, as no Complaint is to be determined by them, but only such as relate to the Tythe upon a small Spot of Ground, and for one Year only, it is certain that the Justices of Peace are by the Laws now in being made Judges in many Cases of greater Value than any such Complaint can be of; for considering the vast Difference in the Produce of Lands between one Year and another, it is impossible to imagine that one Year's Determination can be any Rule for measuring the Value of the very next Year's Produce, and much less for all succeeding Years; therefore the Value of the Complaint or Suit in which the Justices are to be made Judges, is not to be computed from the Price the Tythe might sell for, but only from what is then before the Justices, which is the Value of one Year's Produce.

I confess, my Lords, I have a very great Veneration for our Method of Trial by Jury; I have always looked upon it as one of the Safe-guards for the Lives and the Liberties, as well as the Properties of the People of this Kingdom; and therefore I shall always be for preserving that Method in all Trials where any Matter of Right, or any Matter of great Value, comes in Question; but I cannot think that Method is so absolutely necessary in Causes where a trifling Sum only comes to be in Dispute; and in the Case now before us, it would be quite useless to order a Trial upon every Occasion; because as the *Quaker* refuses his Tythe only for Conscience sake, he will never contest the Matter before the Justices, or oppose their giving Sentence for what he knows to be due by the Laws of the Kingdom: There will never be any Dispute before the Justices, but when the Incumbent and the *Quaker* cannot agree about the Value; and in such a Case, you may order that the two Justices shall report the Affair to the Quarter Sessions, and that the Case in Dispute shall be there tried by Jury. This will be but a small and an easy Amendment to the Bill; it will be very far from

from making it a new Bill; therefore it may be made in the Committee, and yet I believe it will be the most material Amendment the Bill will stand in need of.

The known Laws of the Kingdom, or the antient Methods of the Courts of Judicature, ought not I acknowledge to be altered but upon the most mature Deliberation: But, my Lords, our Laws are not like the Laws of the *Medes* and *Persians*, they may be altered, they ought to be altered, when Time, which is the Touch-stone of every Law, and of every Method of Proceeding, has discovered, that it stands greatly in need of an Alteration or Amendment. I must so far agree with the noble Lord as to declare, that I should not be for altering an established Law or Method of Proceeding for the Sake only of a meer Possibility, that an ill Use might be made of it; but when there appears to me a great Probability that an ill Use will be made of it, I must be of Opinion, that it is then high Time to think of an Alteration, and to contrive some Method for preventing that Inconvenience which is likely to arise. This is the Case at present, it has been discovered to us, that a considerable Number of our Fellow-subjects are exposed by the Laws as they stand at present to be oppressed and persecuted by others, who may find a particular and private Advantage in doing so, and who cannot naturally be supposed to bear them any extraordinary Good-will: Is this a meer Possibility? Is there not the highest Probability that, where a Man has a Power to oppress, and can find an Interest or a Satisfaction, or both, in so doing, he will make use of that Power? And when a great Number of such Men are invested with such a Power, is there any Doubt to be made, but that some of them will make use of it? In the Case of such an apparent, I may say, of such a certain Evil, are we to wait till Numbers have been oppressed and ruined? And are we even then to insist upon legal Proofs of that Oppression? No, my Lords, it was never the Custom of this House, nor I hope ever will: We have made many Laws, we have altered many Laws, for preventing Inconveniencies, without the least Proof that ever any such Inconveniencies had been felt. The late Act for regulating the quartering of Soldiers was certainly some Alteration of the Law in that Respect; and was made for preventing an Inconvenience which had really never happened. The Law for burning Witches, the Law *de Hæretico Comburendo* were both repealed without any legal Proofs. It is said they could never be used without being abused; I say the same of expensive Suits against *Quakers*, for Tythes that might have been recovered before the two next Justices; and I must think it almost as cruel to ruin a *Quaker* by such expensive Suits, and thereby expose him

to starve or rot in a Jail, as it would be to burn him for a *Heretick*, or to burn an old Woman for dealing with the Devil. The first and the second of these Cruelties certainly proceed from the same Spirit, and we find that the Power of the Devil with respect to Witches, has generally kept Pace with the Power of Priests over *Hereticks*.

A I am convinced, my Lords, if it had been thought absolutely necessary, we might have had many Proofs of Oppressions and Persecutions in the Case now before us: Considering the Nature of Mankind, where there is such a Handle for Oppression, it is not possible to imagine but that some of those many who might use it, have used it. I shall not pretend to find Fault with the Order your Lordships have made, but I must still think, we might have got some Information even from Lawyers Clerks, they could have told us a great many Facts, and after we had heard them, we might have given what Credit to them we pleased, and we might have formed such a Judgment upon them as we thought proper; nay, for our further Information we might have called for those particular Records that had been mentioned: But could we expect or desire that the *Quakers* should have brought before us authentick Copies of a great Number of Records, and that without any particular Direction: Let us consider what a vast Expence this would have been: Let us consider there is nothing in the Preamble of the Bill that required any such Expence; and we must therefore conclude, that no prudent Man would have put himself to such an Expence. We have given them leave to produce Evidence which they told us they had not, we have restrained them from producing that Evidence they told us they had; and now we say, we cannot alter the Law without Proofs that a bad Use has been made of it as it stands at present. The Method of recovering Tythes before the Justices of Peace has been found so easy, and so effectual, that, as acknowledged of all Sides, every wise and good-natured Man has ever since chosen it: What are we then to do by this Bill? We are to clip the Wings of the Unjust, the Malicious, and the Oppressive: We are to take from them a Power to oppress, a Power to persecute, because they have made, and it is certain they always will make a bad Use of it. I am surprized, my Lords, to hear so many Difficulties started against such a Bill.

But there is another Reason, my Lords, why I wish you had heard some of those Writnesses the *Quakers* had to bring before you: They might have given us some Account of the Costliness, and of the extraordinary Methods of Proceeding before those Courts called Spiritual Courts. These are the Courts which are chiefly made use of to oppress the *Quakers*.

ers; these are the Courts they principally desire to be guarded against. These Courts, 'tis true, are very antient, but yet I must look upon them as a Sort of Relick of Popery; and it must be acknowledged they are all founded upon the *Canon-Law*, which is a Law I must call blasphemous, ridiculous, and obscene. It must be acknowledged to be blasphemous, because the Canons of the Church, or rather of the Pope, are thereby declared to be of equal Authority with the Epistles of the Apostles: It is ridiculous in many Instances, particularly in this, that it requires 300 Witnesses to condemn a Pope for any Crime, and I think above 70 to condemn a Cardinal; thus it allows that a Pope or a Cardinal may be guilty of Crimes, and I believe they have always had their full Share of Wickedness; but this Law makes it impossible to punish any of them for the most flagitious Crime a Man can be guilty of: As for its Obscenity, I do not think it decent to give in this House my Reasons for calling it so, but it is well known it is so. I make no Doubt but the Judges of his Majesty's Courts in *Westminster-hall* think it their Business to prevent Oppression and Vexation as much as they can, as well as to punish them wherever either can be discovered; and while those Courts are filled with such Judges as they are at present, I make no doubt of their doing their Duty; but I cannot say so much of the Judges of our Ecclesiastical Courts; and even in the King's Courts, it is sometimes impossible to punish apparent Vexation and Oppression, especially in the Case of Tythes; for tho' an Action or Suit should be brought in either of those Courts for Tythes, which might evidently have been recovered by a Complaint to the Justices of Peace, such a Suit will be allowed, I believe, to be oppressive and vexatious, yet it would be impossible for the Judges to prevent or punish the Vexation.

It is, my Lords, a general Rule already established by all our Laws, that no Man ought to be sued in a superior and expensive Court for a small Sum: There are proper Courts established for that Purpose, and there the Plaintiff ought to take his Remedy. Therefore, according to the known Spirit of our Law, we can do no Injury to any Man intitled to Tythes, by obliging him to apply to an Inferior Court, in all Cases of Tythes where no Matter of Right comes in Question; because, where no such Matter comes in Question, the Thing in dispute cannot be of any great Value. This cannot encourage *Quakers* to be more contumacious or litigious than before, because they can never in good Conscience pay without a Suit; and I hope it will be made no Objection against the Bill, that they will not hereafter be so often forced to make a Sacrifice of their Conscience, as they have been heretofore.

Then with respect to their Solicitation, in order to prevail with the Justices to give a Sentence or Decree for less than is really due, it is certain no wise Man among them will solicit any such Thing, nor will any Justice who is their Friend decree so; because the Incumbent or Proprietor of the Tythe may in that Case apply to the Superior Courts with Safety, where he will not only recover the full Value of the Tythe, but will load the *Quaker* with all the Costs: This will be a sufficient Bar to such Solicitation or unjust Decree, where the *Quaker* appears and opposes it; and if your Lordships think there is Danger in the Justices and the *Quaker's* combining together, to fix the Incumbent by the *Quaker's* not appearing, you may give the Incumbent the same Liberty in this last Case as he has in the first; which Amendment may likewise be easily made in the Committee.

With respect to the Objection, my Lords, that if the *Quaker* withdraws his Tythes, and afterwards refuses to appear to be examined before the Justices, it will be impossible for the Incumbent to find any Witnesses for proving the Value of the Tythes so withdrawn, the Objection is founded upon a Supposition, which is not, in my Opinion, possible to be supposed. It is impossible to suppose that an Incumbent cannot find in his whole Parish Cottagers, Servants, or other Persons who do not pay Tythes, and yet can make a very good Judgment of what might have been the Produce of such a Spot of Ground, such an Apple-tree, such a Number of Cows, such a Number of Sheep, or any Thing else that can be supposed to pay Tythe, and their Judgments given upon Oath will certainly, in such a Case of Contumacy, be a good Rule for the Justices Determination; especially considering that in Case of Contumacy they may and ought to take a Latitude which they would not otherwise be intitled to: nor can the *Quaker* be surprized with a Distress upon his Goods before he hears any Thing of the Complaint, without supposing a double Perjury; first in the Service of the Summons for his appearing before the Justices, and next in the Service of the Notice of the Decree or Adjudication: Such a Supposition is not very charitable with respect to the Incumbent who must be concerned, and against such Perjuries no Man can in any Case be safe, no Law can fully provide; there can be no Safe-guard, but the severe Punishment of the Perjury as soon as detected.

Now, my Lords, with respect to the Faults or Inaccuracies found in the several Paragraphs of the Bill, I shall readily grant that it stands in need of some Amendments; perhaps the whole Scheme may be wrong, tho' I cannot be of that Opinion: but we ought to distinguish between the Subject and the

the Scheme of the Bill; the former is certainly good, the latter may be altered in the Committee, without making it a new Bill. If the Justices of Peace are not properly or sufficiently empowered to hear and determine all Matters relating to Tythes, the Words for that Purpose may be altered, and more proper Words inserted, and further Powers granted in the Committee. If the Method prescribed for compelling the Appearance of Witnesses be not thought effectual against those upon whom no Distress can be levied, a few Words may be added for imprisoning, or otherwise punishing their Persons; and as for the Tythingman to be sent by the Incumbent, a few Words may in that Case likewise be added, for obliging him to set out the Tythe in a certain short Time, and a proper Remedy may be provided for preventing his doing Injustice to, or imposing upon either Party concerned, and for obliging the *Quaker* to give him a certain Reward for his Service; but even as the Bill stands at present, there is nothing in it for taking from the Farmer the Care of his own Crop, there is no Penalty upon his removing the Crop without setting out the Tythe but what he was subject to before this Bill was thought of; therefore I am sure no *Quaker* can object against it: If the Crop be taken away, and the Incumbent does not recover the full Value of his Tythe by a Complaint to the Justices; he may then file his Bill in the *Exchequer* for a Discovery; but if he can recover the full Value before the Justices, I think it is most reasonable to put some Bar upon his going in such an expensive Way to work. Turnpikes are always set up for amending a bad Road; in this Sense the Necessity of applying first to the Justices of the Peace may be called a new Turnpike; the Road to Justice is at present difficult, cumbersome, and expensive, and this new Turnpike is set up to make it more passible and less expensive. I hope it will be agreed to, because I am convinced it will answer the End.

In short, my Lords, it is hardly possible to form a Bill but what may in passing stand in need of some Amendment: It is absolutely impossible to contrive a new Law or Regulation against which some Inconveniences may not be suggested. Against this Bill there are, I think, very few that can be reasonably suggested; and the Amendments are all such as may, in my Opinion, with Ease and Regularity be made in the Committee, therefore I hope your Lordships will send it thither. The Subject of the Bill is good, the Intention is christian; some such Bill is certainly necessary: The very Title ought to induce your Lordships at least to try what you can do in the Committee: If the Rev. Bench refuse their Assistance, if the two noble Lords we have now the Happiness to have amongst us

refuse being concerned, it will be a great Misfortune, but still we shall have the Assistance of the learned Judges, and with such an Assistance I hope we shall be able to make it a perfect and an useful Bill. The passing of such a Bill will become the Dignity of this House, will become your Lordships as the Lawgivers of a brave and a free People, will become you as the Protectors of Liberty, and as Encouragers of that Meekness, Charity, and Forbearance, which are so agreeable to the Principles, and so strongly inculcated by the Doctrines of Christianity.

Now, my Lords, is a proper Time for endeavouring to pass such a Bill: There has been a Time when all our Bishops, and perhaps all the Clergy of England would have joined in their Clamours against any Attempt for preventing Persecution, or for demolishing any dangerous Power they might be possessed of; and would even have gone the Length to threaten the Members of our Legislature for being concerned in, or countenancing any such Attempt: But we are now happy in a different Situation; for whatever some young People may think, our Bishops are now more christian, and much more moderate than they were in former Times: I have seen former Times, and therefore I say so; I have seen a noble Lord of this House taken down in very harsh Terms by a Prelate for calling *Quakers Christians*: I hope I may now call them so without incurring any such Reprimand: They are certainly so, and in the Course of this Bill they have shewn themselves so; for tho' they were not very handsomely used by the Counsel against them at our Bar, they returned no such Usage: Tho' they were reviled, they reviled not again; and yet we know that the Counsel for them were very capable to have returned the same Treatment; from whence we may judge they were instructed to the contrary: Therefore, my Lords, as the *Quakers* are our fellow Christians, and as they are a great Body of innocent, industrious, and useful Subjects, tho' the Bill were so defective as to take away all Hopes of making any Thing of it in the Committee, yet out of Decency, and for the Sake of that Regard which we are bound to shew to the *Quakers*, we ought to refer it to the Consideration of a Committee.

The above-mentioned Motion for committing the Bill, was made by the Right Hon. the Lord Viscount H—, and supported by the Lord H—, the Lord C—, the Duke of A—, and the Earl of I—: On the other Side, it was opposed by the Bishop of S—, the Lord C—, the Lord H—, and the Lord L—: But after this Debate upon the Merits of the Bill, the following Lords spoke to the Effect as follows, viz.

Earl of S—gh. My Lords, Whether any

any such Bill as the Bill now before us be necessary or not, seems now not to be the Question in Dispute; because it is acknowledged of all Sides, that the Bill now under our Consideration is a very imperfect and incorrect Bill; therefore, as it is so late, I shall wave giving my Opinion upon that Question. The only Question now before us is, whether we ought to commit the Bill, notwithstanding its being so incorrect and imperfect; and the two chief Reasons given for committing it seem to be either in hopes that we may be able to amend it in the Committee, so as to make it a Bill fit for being passed into a Law; or that we should commit it, in order to shew our Complaisance and Tenderness to the *Quakers*.

As to the first of these Reasons, my Lords, I must say, I quite despair of our being able to amend it in the Committee, so as to make it a Bill fit for being passed into a Law, since the two noble and learned Lords have both declared that they cannot undertake it: And as to our shewing our Regard and Tenderness for the *Quakers*, tho' I am desirous to shew them as much Complaisance, nay, as much Favour, as any Lord in this House can desire to shew them, yet in Decency to our own Proceedings, I cannot agree to throw away a whole Day upon any Affair, when I foresee that it can be to no Purpose, especially considering its being so late in the Session, when all the Time we have will be necessarily employed about Affairs which may, and some of them must, be brought to Maturity; for which Reason I must be against committing the Bill.

L—d B—st. My Lords, I am for the Commitment of this Bill for a Reason different from either of the two mentioned by the noble Lord who spoke last; for as to the Amendment of the Bill I agree with him, that it is not to be expected: There are so many Faults in it, that I think it impossible to amend it in the Committee, so as to make it a Bill fit for being passed into a Law.

As I have, my Lords, taken great Pains to consider every Clause of this Bill, besides admitting every small Fault and every Inaccuracy taken notice of by other Lords in the Debates, I will venture to assert to your Lordships, that there is scarcely one Clause in the Bill which can stand unamended: It is now so late, being, I think, near Ten o'Clock, that I do not care to trouble your Lordships with many Particulars; but as the Rev. Prelate, who spoke early in the Debate, shewed your Lordships very justly how one Clause in the Bill might affect the *Quakers*, and render their Condition worse than it is at present, I can shew your Lordships, that by the same Clause in the Bill as it now stands, a Clergyman must in many Cases come off a Loser, let him take what Way he will to recover that Tythe which is justly due to him: In all Cases where the *Quaker*, after No-

tice given him, removes his Crop, or any other Produce liable to pay Tythes, without setting out the Tythe, or waiting till the Tything-man comes to set it out for him, the Incumbent has only two Methods prescribed for recovering his Tythe: One is by a Complaint to the two next Justices; in which Method it may often be impossible for him to recover the Value of the Tythe so withdrawn for want of Proof, and therefore in all such Cases he must necessarily be reduced to the other Method, which is, by Action or Suit in some of the Courts in *Westminster-hall* for double the Value; but then in this last Method, he is to recover no Costs; and therefore, even tho' he should be able to find Witnesses to prove near the full Value of the Tythe so withdrawn, and should recover double the Value of the Tythe so proved to have been withdrawn, yet he may, and I believe will generally come off a Loser; for suppose the Value of the Tythe so proved to have been withdrawn should not amount to above 2*s*. the Incumbent in such a Case will recover only 4*s*. and in suing for this 4*s*. the necessary Costs of Suit on the Plaintiff's Side only will generally amount to above 10*s*. so that, notwithstanding the Incumbent's being intitled by this Clause to double the Value of the Tythe withdrawn, yet in all Cases, where he cannot prove that the Value of the Tythe so withdrawn, amounts to above 10*s*. he must necessarily come off a Loser; from whence I must conclude, that if this Clause, as it now stands, should pass into a Law, it would be impossible for any Incumbent in *England* to recover any small Tythe from a *Quaker*, unless in Cases where he could prove by Witnesses the full Value of the Tythe before the two next Justices of Peace.

This, my Lords, must necessarily be a great Inconvenience, and I could point out several others, but I shall not now enter further into this Matter: I will only tell your Lordships my Reason for being for the Commitment. I think it will be a Day well spent, even tho' it should make the Session continue a Day longer than is now designed, to consider whether any Thing can be done in relation to the Ecclesiastical Courts; for tho' the learned Doctor at the Bar said, that none but the *Quakers* ever complained of the Proceedings of those Courts, I am very sure, I have heard them complained of by all Mankind, Clergy as well as Laity, ever since I came into the World, and that a Reformation of them is much desired by every Man in the Kingdom, who has not an Interest in their present Methods of Proceeding. For this Purpose my Lords, and with a View to prepare something against another Session, in order to put the Proceedings of our Ecclesiastical Courts upon a better Foot; and at the same Time to consider, whether any Thing can

can be done to satisfy the *Quakers*, without doing an Injury to the Clergy, I am for our giving up one Day, notwithstanding its being so late in the Session, and am therefore for committing the Bill.

After this the L—d H—y stood up again, and spoke to the following Effect, viz. My Lords, tho' many of your Lordships seem to be of Opinion, that it would be of dangerous Consequence to take from the Clergy and other Persons intitled to Tythes, the Privilege of suing *Quakers* in the King's Courts, yet as most, who seem to be of that Opinion, have declared a Regard and a Tenderness for the *Quakers*, I shall beg leave to take a little further Notice of that which seems to be the greatest Grievance upon the *Quakers*, I mean their being sued in the Spiritual Courts, because I hope none of your Lordships will be against giving them Relief in that respect; for it is certainly a great Grievance upon them: and the taking from Ecclesiasticks a Power or Option of suing in Ecclesiastical Courts can be no Injury to any Ecclesiastick in the Kingdom; unless it should be called an Injury to take from a Man the Power he has of doing an Injury to another.

In order, my Lords, to shew that the suing of *Quakers* in Ecclesiastical Courts must be a Grievance upon them, I must beg Leave to state the Case, which I shall do in as brief a Manner as I can. Suppose the Incumbent has a Demand upon some *Quaker* in his Parish for Tythes, *Easter-offerings*, or some such customary Payment, to the amount of 2 or 3 s. and that the *Quaker* neither disputes the Value, nor the Parson's Right to it: The Incumbent knows that if he should demand it as a Debt due to him, the *Quaker* would pay it without any Contest, or if he should sue for it before the Justices of Peace, or even in the King's Courts, the *Quaker* would neither oppose Judgment's being given against him, nor would he any way obstruct the executing of that Judgment upon his Goods; by either of which Methods the Incumbent would recover his Right, without putting himself to any great Trouble, or the *Quaker* to any very extraordinary Expence: But the Incumbent having a Mind to persecute the *Quaker*, or having perhaps a private Grudge against him, or intending to raise a Contribution upon him, sends and makes a formal Demand of so much Money for Tythe or *Easter-offerings*, because he knows the *Quaker* cannot in Conscience comply with such a Demand; and upon the *Quaker's* first Refusal, he immediately libels him in the Spiritual Court because he knows the *Quaker* cannot in Conscience appear in any such Court, or obey any of their Orders or Decrees: Upon the *Quaker's* not appearing, he is of course excommunicated, so that, in order to prevent or relieve himself from the Consequen-

ces of the Excommunication, he is obliged to apply for a Prohibition; and in order to obtain a Prohibition, he must necessarily contest the Incumbent's Right to this Tythe, *Easter-offering*, or other customary Payment, tho' he be certain of being cast upon the Trial, and consequently of being loaded with all the Expence, both in the Spiritual and Temporal Courts, which must amount to a very large Sum, even in the cheapest and most submissive Way the *Quaker* can chuse to proceed; for the Incumbent being sure of recovering all his Costs at last, will certainly oppose the Prohibition as much as he can, and will put himself to all the Charge he can possibly find any Pretence for. Thus your Lordships must see, that a *Quaker* may be put to a most extraordinary Charge, whenever the Incumbent pleases, and that without any Vexation or Litigiousness in him, but merely for the sake of preserving the Testimony of a good Conscience; and as this Hazard or Inconvenience recurs every Year, it must be granted that the Liberty of suing them in Spiritual Courts is a very great Grievance upon them.

But, my Lords, let us see if the taking of this Liberty or Option from all Persons intitled to Tythes, could be an Injury to such Persons; and considering that no *Quaker* can in Conscience appear in any Spiritual Court, we must conclude, that no Man can recover his Tythe from a *Quaker* by any Suit he can bring in the Spiritual Court: He may, indeed, get the *Quaker* arrested and detained in Jail till he gives Security to appear in that Court, that is to say, he may make him a Prisoner for Life, for no *Quaker* can ever give any such Security; but by no such Suit can he ever recover what is due to him; so that by taking away this Liberty or Option of suing *Quakers* in the Spiritual Court, we take from no Man a Method by which he can recover his Property, but only a Method by which he may vex and injure his Neighbour, in order to compel him to act contrary to his Conscience: For this Reason I hope none of your Lordships will oppose the taking of this Liberty or Option from all Persons intitled to Tythes; and as this may be done in the Committee, by throwing out all the enacting Clauses now in the Bill, and inserting a short Clause for this Purpose, I hope you will therefore, upon this Account, if there were none other, agree to the Committing of the Bill.

This Proposition was supported and enforced by the D—ke of A—le, who among other Things said, That the noble Lord who spoke last had made a Proposition which must, in his Opinion, be approved by every one of their Lordships, who was not against the Subject or Intention as well as the Scheme of the Bill.

This

This was answered by the L—d H—ck, who among other Things said, That he would have been very glad to have joined in any Thing for giving the *Quakers* as much Ease with respect to their Tythes, as was consistent with that Property which others had in them, but he despaired of their being able to do any Thing that Session; and the Proposition the noble Lord had made would not remedy all the *Quakers* complained of, nor could it, in his Opinion, be executed in the Committee; for it would be necessary for them, before they could draw up or agree to any such Clause, to consider the Methods of Proceeding in most of the Courts in *Westminster-hall*, and to alter some of them, which they could not pretend to do without a great deal of Deliberation. And moreover, that, in order to execute what was proposed, it would be necessary for them to drop, not only the whole Body of the Bill, but a great Part of the Preamble; and even the Title would require to be entirely altered; in which Case it could not, in any Sort of Propriety, be called the same Bill that had passed in the other House and had been twice read in that: Therefore he continued in his former Opinion, and consequently was against committing the Bill.

The Question being then put upon the first Motion, for committing the Bill, it was, upon a Division, carried in the *Negative* by 54 not Contents, to 35 Contents; of which Lords see the List in our *Magazine* for May last, page 264.

March 3. A Message from the Lords, that they had agreed to the Bill, intitled, *An Act to repeal the Statute of the 1st of K. James I.* intitled, *An Act against Conjuraton, Witchcraft, and dealing with evil and wicked Spirits*, except so much thereof, as repeals an Act of the 5th of Q. Eliz. against Conjuratons, Enchantments, and Witchcrafts, with some Amendments; to which the Commons next Day agreed, with an Amendment to one of them.

The same Day, viz. March 3. W—m H—y, Esq; moved for Leave to bring in a Bill for the better Relief and Employment of the Poor, and for the more effectual punishing Rogues and Vagabonds, and for reducing the Laws relating to the Poor, and to Rogues and Vagabonds, into one Law; which was accordingly granted, and Mr. Hay, Mr. Hooper, and Mr. Pollen, were ordered to prepare and bring in the same.

This Bill was presented to the House by Mr. Hay, on the 11th of the same Month, and being then read a first Time, and ordered to be read a second Time, it was ordered to be printed. On April 7. it was read a second Time, and committed to a Committee of the whole House; and on the 13th, 17th,

and 18th of May, Mr. Brereton being in the Chair, the Committee went thro' the Bill, and made several Amendments, which were reported to the House on the 19th, and the Report ordered to lie upon the Table. Next Day, being the last Day of the Session, the House ordered that such a Number of Copies of the said Bill, with the Amendments reported the Day before, as should be sufficient for the Use of the Members of the House, should be printed: Which Order was made, that the Members might all have Copies of the Bill with the Amendments, in order that they might consider it fully, and take such Advice as they might think proper during the Recess of Parliament, so as to be well instructed in the Affair against next Session, when, 'tis thought, some such Bill will pass.

Mortmain Bill brought in, and PETITIONS against it.

On March 5. his H—r the M—r of the R—lls, moved for Leave to bring in a Bill to restrain the Disposition of Lands, whereby the same become unalienable; which was accordingly granted, and the M—r of the R—lls, Mr. Ord, Mr. Granville, and Mr. Plumer, were ordered to prepare and bring in the same. This Bill was presented to the House by the M—r of the R—lls on the 10th of the same Month, and being received was then read a first Time, and ordered to be read a second Time. Next Day the House ordered the said Bill to be printed, and it was read a second Time on the 18th, and committed to a Committee of the whole House.

On the 25th, a Petition of the Chancellor, Masters and Scholars of the University of Cambridge, was presented to the House and read, setting forth, That the University, and the several Colleges therein, were founded and endowed for the Maintaining fit Persons in the Study of useful Knowledge, and the bringing up Youth in Learning, Virtue and Religion; and that they had hitherto pursued those Ends with great Industry and Success; and that many excellent Books had been written by the Members thereof for the Service of Religion, and many useful Discoveries and great Improvements made in Arts and Sciences; and that many of the Nobility and Gentry had by their Academical Education been so well fitted for the Service of the Church and State, as to have proved the Ornaments and Supports of both; and that the University had at all Times before been thought worthy of the Countenance of the Legislature, and continually favoured by Persons of all Orders and Degrees, eminent for Wisdom and publick Spirit; and that, if the Bill to restrain Alienations of Lands should pass into a Law without Amendment,

ment, it would, as the Petitioners apprehended, be attended with Consequences greatly prejudicial to them at that Time, and much more so in Time to come, because it would in a great Measure prevent all Donations to supply present or future Deficiencies, or for any wise and great Purposes, how useful and necessary soever they might be thought; and that a considerable Part of their Revenue arose from Annuities and other certain Payments issuing out of Lands and other Estates; and that many of those Payments having been fixed in the Reign of *Q. Elizabeth*, and still continuing invariably the same, were then, by the great Fall of Money since that Time, sunk so far below their original Value, as to be insufficient to answer the Purposes, for which they were designed; and that several Headships were under 120, some under 100 *l. per Ann.* and that the Salaries of some Professorships were under 50 *l. per Ann.* and others, as those of *Botany*, *Anatomy*, and *Chymistry*, had no Endowment at all; and that the Income of much the greatest Part of their Fellowships was under 60, and many under 40, of some so low as 30, and 20 and 15 *l. per Ann.* and that many of their Scholarships and Exhibitions amounted not to above 6, 4, and 3 *l. per Ann.* and that some were even under those small Sums; and that many poor Students had neither Scholarship nor Exhibition to help towards their Maintenance; and that the Number of Advowsons in most Colleges was very small in Proportion to the Number of Fellows; and therefore praying the House to except that University, and the several Colleges therein, out of the said Bill. Which Petition was ordered to be referred to the Committee of the whole House, to whom the said Bill was committed.

Next Day a Petition of the Chancellor, Masters and Scholars of the University of *Oxford*, in behalf of themselves, and the several Colleges and Halls within the said University, was presented to the House, and read; setting forth, That the Petitioners apprehended, that by the Bill then depending before the House, to restrain the Dispositions of Lands, whereby the same become unalienable, they and their Successors might be deprived of the Assistance of future Benefactions, and the charitable Donations of such, as might be disposed to promote the pious Intentions, for which that ancient University was founded; and that the Petitioners were by their Constitution entirely founded in Charity, and must ever continue to depend upon it; and that notwithstanding the large Benefactions with which they had been formerly endowed, yet many of the Societies were so meanly provided for, that the pious Designs of their Founders must remain imperfect, without future Benefactions, which had been

found by long Experience to rise by such slow Degrees, that the Petitioners hoped, that, when their Case was duly considered, they would not be thought to be within any of the general Mischiefs that might arise from Alienations in *Mortmain*; and that, as their present Possessions were inconsiderable in respect of the great Number of Persons, that were maintained out of them, and that as the Donations they then enjoyed, as well as those they might afterwards receive, most be solely appropriated to the Advancement of Religion and Learning, for those Reasons they hoped, that no Difficulties or Discouragements would be put in the Way of those, whose pious and charitable Intentions might dispose them to give their Assistance towards rendering the University in general, as well as the several Societies of it, more instrumental in promoting those great and necessary Ends; and that the Petitioners therefore hoped, they should be exempted from the Restraints mentioned in the Bill; or that they should meet with such Relief from that House, as to the House should seem meet. Which Petition was likewise referred to the same Committee.

On the 31st, a Petition of the Governors of the Charity for Relief of the poor Widows and Children of Clergymen, was presented to the House, and read; setting forth, That by Letters Patent of *K. Charles II.* the Petitioners were constituted a Corporation, for Relief of the poor Widows and Children of Clergymen, and made capable in the Law, to take Lands, Tenements, and Hereditaments, not exceeding the yearly Value of 2000 *l.* and also Goods, Chattels, and Things of what Nature and Quality soever, and to alienate and dispose of the same; which Capacity was enlarged by his late Majesty *K. George I.* to 3000 *l.* a Year more, and that the Institution of that Charity had been so well esteemed, and supported by so many pious and well-disposed Persons, that the Petitioners had, for divers Years past, been able to make a Distribution of 5 *l.* a Year to above 800 Widows of very poor Clergymen, and to put out many of their Children yearly to useful Trades, who otherwise must have been burthensome to their respective Parishes, and their Children less useful to the Commonwealth, an Account whereof had been annually printed and published; and that the Objects of that Charity were far more numerous, than the Petitioners could provide for, out of their certain annual Revenues, and casual Benefactions, their certain annual Revenues, then not exceeding 3000 *l.* a Year; and therefore, as that Charity was so well founded, and for so good Purposes, and that Corporation restrained from accepting Lands beyond 5000 *l.* a Year, and those alienable in the Discretion of the Petitioners, praying, that that Corpo-

ration might be wholly excepted out of the Bill then depending in that House, for restraining the Dispositions of Lands, whereby the same become unalienable, or that such Provision might be made thereby, that that Corporation might enjoy the Benefits intended them by the said Royal Grants, and that the same might be preserved to them, to the full Extent thereof. No Motion being made for referring this Petition to the Committee, it was ordered to lie upon the Table.

On April 2. a Petition of the Governors of the Bounty of Q. Anne, for the Augmentation of the Maintenance of the Poor Clergy, was presented to the House and read; setting forth, That the said Governors were made a Body Corporate by her late Majesty Q. Anne, in the third Year of her Reign, in Pursuance of an Act of Parliament, empowering her to settle upon them the Revenue of the first Fruits and Tenths, for the Augmentation of the Maintenance of the poor Clergy, and to make Rules and Orders for the regular Administration of the same, by which Statute Licence was given to all and every Person or Persons, by Deed inrolled in such Manner and within such Time, as was directed by the Statute made in the 27th Year of the Reign of Henry VIII. for Inrollment of Bargains and Sales, or by last Will or Testament duly executed, to grant to the said Corporation and their Successors, Lands, Tenements, Hereditaments, Goods and Chattels for the Purposes mentioned in the said Act; which Corporation had also thereby full Capacity to purchase, take and enjoy any Money, Lands, Tenements, Goods and Chattels, without any Licence or Writ *ad quod Damnum*, the Statute of *Mortmain*. or any other Statute or Law to the contrary notwithstanding; and that afterwards, in Pursuance of the Powers granted by the said Statute, divers Rules and Orders were settled and confirmed by her said late Majesty, under the great Seal; by some of which Rules and Orders, the Augmentations to be made, were directed to be by way of Purchase, and not by way of Pension; and the stated Sum to be allowed for the Augmentation of each Cure, was limited to 200*l.* to be invested in a Purchase, at the Expence of the Corporation; and the said Governors were empowered to give the said Sum of 200*l.* to Cures, not exceeding 35*l.* per Ann. (which Sum was afterwards, by the Authority of his late Majesty K. George I. extended to 50*l.* per Ann.) where any Persons would give the same or greater Sum or Value in Lands or Tythes; and such Governors were directed, every Year, between *Christmas* and *Easter*, to cause the Account of what Money they had to distribute that Year, to be audited, and when they knew the Sum, publick Notice was directed to be given, that they had such a Sum to distribute in so many

Shares, and that they would be ready to apply those Shares to such Cures, as wanted the same, and were by the Rules of the Corporation qualified to receive them, where any Persons would add the like or greater Sum to it, or the Value in Lands or Tythes for any particular Cure; and that the Petitioners apprehended, that by the Bill then depending before the House, to restrain the Dispositions of Lands, whereby the same become unalienable, the Rights and Powers vested in them by the said Act, and by the Rules and Orders made in Pursuance thereof, might be greatly affected, if some proper Provision should not be made to prevent it; and therefore praying that a Clause or Clauses might be added, whereby the said Rights and Powers might be secured.

After reading this Petition, a Motion was made and seconded, for ordering it to be referred to the Consideration of the Committee, to whom the said Bill was committed; and the same being opposed, after a pretty long Debate, the Question was put, and, upon a Division, carried in the Negative by 143 to 95; whereupon the Petition was ordered to lie upon the Table.

Bill Committed, Licenses address'd for, Clause for excepting the Universities, &c. with other Petitions against the Bill.

The same Day the House, according to Order, resolv'd itself into a Committee of the whole House, upon the said Bill, and made some Progress, Mr. G——n being in the Chair; after which Mr. Speaker resumed the Chair, and Mr. G——n reported from the Committee, that they had made some Progress in the Bill, and had directed him to move, that they might have Leave to sit again; whereupon it was resolv'd, that the House would, upon Monday then next, at 12 o'Clock, resolve itself into a Committee of the whole House, to consider further of the said Bill.

On the said Day, being April 5th, it was moved and resolv'd, That an humble Address should be presented to his Majesty, that he would be graciously pleas'd to give Directions to the proper Officer to lay before that House, an Account of what Licences had been granted by the Crown, and for what Values respectively, to any Person or Persons, Bodies Politick or Corporate, their Heirs or Successors, to alienate in *Mortmain*, and to purchase, take and hold in *Mortmain* in Perpetuity, any Lands, Tenements, or Hereditaments whatsoever, since the Act of the 7th of K. William III. intitled, *An Act for the Encouragement of charitable Gifts and Dispositions*, to that present Time.

After which the House, according to Order, resolv'd itself into a Committee of the whole

whole House, to consider further of the said Bill, when Mr. G——n being their Chairman as before, the Clause for excepting out of the said Bill the Universities of *Oxford* and *Cambridge*, and the Colleges of *Eaton*, *Winchester*, and *Westminster*, with a Provision relating to Advowsons, was presented, and a Motion made for its being received and made part of the Bill, which occasioned some Debate; but upon the Question being put, it was, upon a Division, carried in the Affirmative, by 227 to 130.

With respect to the proviso relating to Advowsons, an Amendment was proposed for leaving it in the Power of the several Colleges belonging to the two Universities, to exchange small Livings for larger; so as not to encrease the Number of Advowsons, to which they were by the Act to be restrained; which occasioned a new Debate, and at last upon putting the Question, it was carried in the Negative.

After which, the Committee having gone thro' the Bill, they directed their Chairman to report the Amendments they had made to it, when the House should please to receive the same; and on the 7th a Petition of the *Grey Coat Hospital* in *Totbill-fields*, of the Royal Foundation of *Q. Anne*, was presented to the House and read; setting forth, That by Letters Patent dated the 19th Day of *April*, in the 5th Year of the Reign of the late *Q. Anne*, the Petitioners were constituted a Corporation, and made capable in the Law to take Lands, Tenements, and Hereditaments, not exceeding the yearly Value of 2000*l.* and also Goods, Chattels, and Things of what Nature or Value soever, for the Benefit of such poor Children of the Parish of *St. Margaret, Westminster*, as from Time to Time should be admitted into the said Hospital; and that the Petitioners had for several Years past been enabled to maintain, cloath and teach a considerable Number of poor Children of both Sexes, and had from the Time of the first Foundation of the said Hospital placed out above 5000 such Children Apprentices, some to the Sea Service, and others to useful Trades, Husbandry, and Housewifery; and that the Children then, and many Years past, were many more in Number than the Petitioners could provide for by the yearly Subscriptions and Collection joined to the certain annual Revenues of the said Hospital, which together, at that Time, did not exceed 700*l.* a Year; so that were it not for the casual and generous Benefactions, the Petitioners had received by the Bequests of several pious and well-disposed Persons, they could not take so many poor Children into their Care and Protection, to be maintained, cloathed, and instructed; and therefore, in Consideration the then annual Revenue belonging to that Hospital was of so small

a Value, praying that that Corporation might be excepted out of the Bill then depending in that House, for restraining the Dispositions of Lands, whereby the same become unalienable, or that such Provision might be made thereby, that the Benefits intended them by the Grant of their Royal Foundress might be preserved to them in their full Extent. Which Petition was ordered to lie upon the Table.

Next Day a Petition of the Trustees of the several Charity Schools within the Cities of *London* and *Westminster*, Borough of *Southwark*, and Bills of Mortality, in behalf of upwards of 5000 poor Children cloathed and educated in the said Schools, and also in behalf of all other Charity Schools in this Kingdom, for the Education of the Children of the Poor in the Principles of the Church of *England*, as by Law established, was presented to the House, and read; setting forth, That, if the Bill then depending in that House, to restrain the Dispositions of Lands, whereby the same become unalienable, should pass into a Law without Amendment, it would prevent many charitable Donations for the Promotion of the said Schools, which were so far from having any large Endowments in Land or Money, that very few had so much as a School-house; and that, as the voluntary Contributions did not equally and regularly answer the constant Expenses, the Trustees in several Places had been obliged to reduce the Number of their Children, and in others the Schools had been entirely laid down, for want of Means to support them; and representing to the House the great Usefulness of those Schools, and alledging that during the Continuance thereof, the Petitioners had placed out upwards of 17,000 Children within the said Bills of Mortality to Apprenticeships in the lower Trades, and to menial Services, whereof about one half had been put out to such Services, besides near 400 bound to the Sea-service; and therefore praying the House to except the said Charity Schools out of the said Bill, or to grant them such other Relief, as to the House should seem meet. This Petition was likewise ordered to lie upon the Table.

Bill sent to the Lords, and the several Amendments offer'd in that House.

The same Day the Report from the Committee upon the said Bill was received, and the Amendments, with Amendments to one of them, all agreed to; after which the Bill, with the Amendments was ordered to be ingrossed, and on the 15th the Bill was read a third Time, and a Motion made for its being passed, which occasioned some Debate; but upon the Question being put, it was, upon a Division, carried in the Affirmative by 176 to 71.

72; and Mr. G——n was ordered to carry the Bill to the Lords, and desire their Concurrence.

On the 16th of April this Bill was read a first Time in the H—se of L—ds, a second Time on the 20th, and on the 5th of May the said House resolved itself into a Committee upon the same, when the chief Debates happened both in relation to the Merits of the Bill in general, and in relation to the several particular Clauses.

Before the House resolved itself into the said Committee, the L—d G——er moved for an Instruction to receive a Clause in favour of the Universities, much of the same Nature with that proposed in the H—se of C—ns, with respect to the giving them a Liberty to exchange the small Livings they were, or might be in Possession of for others of a greater Value, so as the Number of Advowsons in the Possession of any College might never exceed the Number prescribed by the Bill; in which he was supported by the L—d B——st, the E—l of A——n, the E—l of St——d, &c. but upon the Question's being put, it was carried in the Negative.

After the House had resolved itself into the Committee, the E—l of S——d took Notice that the Words (to Uses called charitable Uses) in the Preamble, seemed to cast some Sort of Reflection upon those charitable Foundations which had been lately established, none of which, he hoped, their Lordships would look on as a publick Mischief, and therefore he proposed leaving them out, in which he was seconded by the E—l of A——n, and B——p of S——ry, but this Amendment was disagreed to; because some of the late Dispositions made to such Foundations seemed to be a little extravagant, and even the Foundations themselves, if they had not already, might very soon become a publick Mischief.

The B——p of S——ry likewise took Notice, that by some Words in the first enacting Clause, the charitable Foundation called Q. Anne's Bounty, which he hoped was looked on by all their Lordships as a most useful and necessary Foundation, would be disabled even from taking any Sum of Money or other personal Estate; for by that Clause, as it then stood, no Sum of Money or other personal Estate whatsoever, to be laid out in the Purchase of Lands, could be given by Will to any charitable Use whatsoever; and as that Society, by their own Rules and Orders, were obliged to employ all Sums of Money left to them in the Purchase of Lands, he was afraid that every Legacy left to them by Will would be within the restraining Words of that Clause; therefore he hoped some Explanatory Words would be added in behalf of that Society; but this was likewise disagreed to.

Then the L—d H——et took Notice, That the general Words in the restraining Clause might in some Cases affect Purchases for a valuable Consideration, therefore he moved that the following Proviso should be inserted in the Bill, viz.

Provided always that nothing herein before-mentioned relating to the Sealing and Delivery of any Deed or Deeds 12 Kalendar Months at least before the Death of the Grantor, or to the Transfer of any Stock six Kalendar Months before the Death of the Grantor, or Person making such Transfer, shall extend, or be construed to extend, to any Purchase of any Estate in Lands, Tenements, or Hereditaments, or any Transfer of any Stock, to be made really and bona fide for a full and valuable Consideration actually paid, at or before the making such Conveyance or Transfer, without Fraud or Collusion.

This was objected to by some Lords, as being unnecessary, and as it would afford a Handle for evading the Law; for as Conveyances of Land Estates might be, according to the Laws of this Kingdom, made by Persons on Death-bed; it would be easy for any charitable Corporation or Body Politick, to pay a full and valuable Consideration in ready Money, at or before the making of any such Death-bed Conveyance or Transfer, and at the same Time to have a Will made, whereby the Sum so paid should be left them by way of Legacy; which would be a good Bequest, and with that Legacy the Body Politick might replace the Money which they had laid out upon the Purchase; but it being the general Opinion that such a Conveyance and Bequest would be interpreted as made by Fraud or Collusion, in order to evade the Law, and would not therefore be within the Proviso; and it being thought that it would be a great Hardship upon all Bodies Politick, to make void every Purchase or Transfer they could afterwards make or receive in Case the Grantor, or Person who made the Transfer, should by Accident die within a Twelve-Month after such Purchase, or within six Kalendar Months after such Transfer, even tho' really and bona fide made for a full and valuable Consideration, paid at, or before the making of such Purchase or Transfer, therefore it was agreed that the Proviso offered should be inserted and made Part of the Bill.

The Committee went afterwards thro' the Bill, and ordered their Amendment to be reported to the House; and accordingly on the 11th, the L—d D——r, their Chairman, reported the same to the House, when a Proposition was made to leave out, at the latter End of the first enacting Clause, these Words, viz. *And unless the same be made to take Effect in Possession for the charitable Use intended, immediately from the making thereof, and be without*

without any Power of Revocation, Reservation, Trust, Condition, Limitation, Clause, or Agreement whatsoever, for the Benefit of the Donor or Grantor, or of any Person claiming under him. This occasioned a pretty long Debate, but the Question being at last put, whether those Words should stand Part of the Bill, it was resolved in the Affirmative; and the Amendment made by the Committee being agreed to, the Bill was ordered to be read a third Time; which was accordingly done on the 13th and the Bill passed without a Division; but some Temporal Lords entered their Protest, without giving any Reasons. (See p. 263.)

Substance of all the chief DEBATES, that happen'd upon Occasion of the Mortmain Bill, in the H. of Lords.

The Arguments for the Bill were as follows, viz.

My Lords, as the landed Interest of this Kingdom has always been our chief Support against foreign Enemies, and the great Bulwark for defending the Liberties of the People against the Attempts of ambitious incroaching Power, therefore it has always been reckoned a most necessary and a fundamental Maxim of our Constitution, not to allow any great Share of our landed Interest to be vested in Societies or Bodies Politick, either sacred or profane: This Maxim appears to be coeval with our Monarchy, and is expressly established by the Great Charter, for tho' Grants or Alienations of Lands to religious Houses only, be thereby prohibited, yet this Prohibition was founded upon the general Maxim, and religious Houses only were then mentioned, because Alienations to them was at that Time the only Transgression of this Maxim, which had been felt or complained of; but in the very next Reign, in the 7th Year of the Reign of our Great Edward I. this Defect was supplied, and by an express Statute, Alienations of Lands to any Body Politick whatsoever, were forbidden under Pain of forfeiting the same: Nay, so sensible was that wise King of the Necessity of this Maxim, that by the said Statute it is enacted that no Body Politick shall presume to appropriate to themselves any Lands or Tenements by any artful or evasive Method whatsoever; and of such Consequence was the Alienation of Lands in Mortmain thought of old, that by one of our old Statutes the Writ *ad quod damnum* for alienating Lands in Mortmain was ordered not to be granted but upon Petition in full Parliament.

'Tis true, my Lords, our Ancestors had several Reasons for preventing the Alienation of Lands in Mortmain which do not subsist at this Day. We are not now in any Danger of having our Lands swallowed up by an am-

bitious and avaritious Clergy, therefore we need not provide so strongly against our Lands passing into their Hands. The Defence of the Nation does not now so much depend upon our Militia or Military Tenures, therefore the Safety of the Nation cannot be brought into so great Danger by a Multiplicity of such Grants: And as our Lands are all now held by Socage Tenure, neither his Majesty nor any inferior Lord under him can be so much injured by such a Grant. But there is another Reason which then subsisted, which now subsists, and which will always subsist; for if a great Part of the Land Estates of this Kingdom should ever come to be possessed by Corporations or Bodies Politick, it might be of the most dangerous Consequence both with respect to our Security against foreign Invasions, and with respect to the Preservation of our Rights and Privileges; because it is certain that a Man who has in his own Person a particular Right to any Land Estate, which he may transmit to his Posterity, will be more daring and active in the Defence of that Right against a foreign Enemy, and more jealous of Arbitrary Power by which that Right may be made precarious, than we can suppose any Man will be, who has a Right in the Lands only as a Lessee, or as a Member of a Corporation. This, my Lords, to me, will always be a strong Reason for looking with a jealous Eye upon the growing Property of Corporations in the Lands of this Kingdom: This I take to be now one of the chief Reasons for not allowing any Bodies Politick to purchase Lands without the King's Licence; and while our Laws continue as they stand at present, it is to be hoped that the Power of granting such Licences will be made use of with great Circumspection.

As this Power has not yet been too far extended, as we are certain no wrong or unwise Use will be made of it during his present Majesty's Reign, therefore it is not yet absolutely necessary to subject it to any Restraint: But, my Lords, there is an Evil lately grown up; an Evil not founded upon our ancient Constitution, but an Evil which took its Rise from our having departed about two Centuries ago from the Common Law of this Kingdom: I mean the Liberty of granting or devising all Sorts of Land Estates by Will and even upon a Death-bed, not only to the Disappointment and Disinheritance of a Man's natural and lawful Heirs, but to the Prejudice of the common Good of this Kingdom, and in Contradiction to that ancient Maxim, which forbids the granting or alienating any Lands in Mortmain. Happy was it for this Nation, and for many great Families in this Kingdom, that no Man had such a Liberty in the Times of Popery and Superstition: for if Men could have then granted their Estates by Will, we should never have had such an Article as I

have mentioned in *Magna Charta*, nor any Law against *Mortmain*, we should never have had a Reformation, nay, I doubt much if we should have had a Layman of a Land Estate in *England*: But luckily for us we did not think of this Alteration of the Common Law till the Reformation was not only begun, but pretty far advanced, and those Monasteries and religious Orders dissolved, who had been for Ages the Taxers of every dying Man's Will, and the Terror of all his Relations.

We know, my Lords, that this Liberty of devising Land Estates by Will, was first established by a Statute of the 32d of *Henry VIII.* which was explained and enforced by another Statute of the 34th and 35th of that King's Reign. However, by these two Statutes there were some Restraints laid, or rather left, upon granting or alienating Land Estates by Will; for a Man was allowed to devise but one third Part of his Lands held by Knights Service, and there is an express Exception made with respect to Bodies Politick or Corporate, so that no Man could by these Statutes devise a Land Estate to any Body Politick or Corporate, no not even with the King's License; but both these Restraints are now in a great Measure removed, for all Tenures having been by an Act of the 12th of *K. Charles II.* turned into free and common Socage, a Man may now devise by Will all his Fee-simple Lands if he pleases; and by an Act of the 2d of *Q. Anne*, any Person may by Will devise his whole Land Estate to the Corporation for the Bounty of *Q. Anne*, and they are enabled to take and enjoy the same without any License or Writ *ad quod damnum*. So that with respect to this Corporation, every Man may upon his Death-bed, and even in his last Moments, devise his whole Land Estate, not only to the Disappointment and Disinheritance of his natural and lawful Heirs, but to the Prejudice of what was of old thought to be the common Good of this Kingdom, and in Contradiction to that ancient Maxim, which forbids the granting or alienating any Lands in *Mortmain* without a Writ *ad quod damnum*, which formerly could not be granted but upon a Petition in full Parliament.

So careful, my Lords, were our Ancestors in preventing the Lands of this Kingdom from coming into the Hands of Corporations or Bodies Politick, Ecclesiastical or Lay, Sole or Aggregate, that Grants or Alienations of Lands to any Person or Persons in Trust, and for the Use of such Bodies, are declared void by a Statute of the 15th of *Richard II.* and by a Statute of the 23d of *Henry VIII.* all Grants and Alienations of Lands to any Person or Persons in Trust for any superstitious Use, are declared to be utterly void. But of later Times we have found out a Sort of Use called a charitable Use, for the Benefit of which a Man may alienate, grant, or devise,

his Lands; so that as the Law stands at present, tho' a Man cannot devise his Lands to any Corporation, except that for the Bounty of *Q. Anne*, yet he may now upon his Death-bed, and even in his last Moments, devise his whole Land Estate to any Person or Persons in Trust for the Benefit of any charitable Use he pleases to appoint.

A How we have come, my Lords, in these later Ages to establish so unbounded a Liberty of devising Land Estates by Will, and in *Mortmain* too, I do not know; but I am sure it is inconsistent with the ancient Maxims of this Kingdom, and with the Laws now subsisting in most Countries of *Europe*; for in *Scotland* no Man can as yet grant or devise any Land Estate by Will; and in *Wales* the Liberty of disposing of Estates by Will was so much confined, that they could not by their last Will or Testament, freely dispose of their Goods and Chattels, till an Act was made in the 7th and 8th Years of the Reign of his late Majesty *K. William* for that Purpose. Tho' this unbounded Liberty may be attended with some Conveniences, yet I am persuaded it often subjects dying Persons to great Trouble and Solicitation, so that many of them have been, and many may be, obliged to purchase the Privilege of passing their last Moments in Ease and Quiet, at the Expence of their natural Heirs; which I must call an Injustice done to a Man's next Relations, if they have never been guilty of any Thing to deserve being disappointed of that Expectation they are justly intitled to by the Laws of their Country; and it is certain that more Law-suits have sprung from this Fountain than from any other Regulation in the whole Body of the Laws of *England*: This Injustice and Inconvenience are most emphatically, as well as prophetically, taken Notice of by the great *Coke* in his Remarks upon the two Statutes of *Henry VIII.* I have mentioned; where having taken Notice that by the Common Law no Lands or Tenements were devisable by any last Will and Testament; but now, says he, since *Littleton* wrote, by the Statutes of 32 and 34 *Henry VIII.* Lands and Tenements are generally devisable by the last Will in Writing or the Testament of the Tenant in Fee simple, whereupon many difficult Questions, and most commonly Disinheritance of Heirs (when the Devisors are pinched by the Messengers of Death, he might have added, some other Sorts of Messengers) do arise and happen. From these Words we may judge that that great Man did not much approve of these two Statutes; and if he had been alive at this Day, I am convinced he would have much less approved of the Statute made in the second of *Q. Anne*, which I have already taken Notice of.

I am very far, my Lords, from disap-
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proving of all charitable Foundations, or of all Donations to charitable Uses either by Will or by Deed; but I am convinced that our charitable Foundations may become too numerous, and that some of those we have already established, may become too rich and extensive, especially if the unlimited Power of granting Licenses first vested in the Crown by the Statute of the 7th and 8th of the late K. William be not cautiously and moderately used. However, as no wrong Use has yet been made of that Power, as there is no Appearance or Suspicion that a wrong Use will be made of it, there is therefore no present Occasion for laying any Restraint upon it, or for laying any Restraint upon those Donations which are made to Corporations or charitable Uses by Men in full Health and Vigour, and to take Place immediately upon the executing of the Writings for that Purpose; but as for those Donations which are made by Will, or by any Deed in the Nature of a Will, and not to take Place till after the Death of the Donor, I am of Opinion that it is high Time for us to restrain the Maxims of our Ancestors, by restraining this Testamentary Power with respect at least to Land Estates; for by the specious Pretence of Charity, the Solicitations of those who are interested in charitable Foundations, and the Pride and Vanity of Donors, it is to me highly probable that too great a Part of the Lands in this Kingdom may soon come to be in *Mortmain*, to the Prejudice of the Nation in general, and to the Ruin or unjust Disappointment of many a Man's poor Relations; for I cannot but think that a Man's Heirs at Law have some sort of natural Right to succeed after his Death, at least to his land Estate, unless they have forfeited that natural Right by some sort of unnatural Behaviour; and I cannot think it any Charity in a Man to give, even to the most charitable Use, that which he cannot in himself either possess or enjoy: The giving of any such Charity I shall always look on rather as an Act of Injustice towards the Heir at Law, than as an Act of Charity in the Donor; and as the giving of Land Estates in such a Manner, is contrary to the ancient Maxims of the Kingdom, and may be of dangerous Consequence to the Publick, I think it ought to be prevented. This is what is intended by the Bill now before us, and therefore I am most heartily for its being passed into a Law.

The Answer was in Substance as follows, viz.

My Lords, that we have very ancient and very strong Laws against granting or alienating Lands in *Mortmain*, is what I shall not deny, nor have I at present any Occasion for so doing; but the chief Reasons for enacting those Laws were such as do not now, nor, I hope, ever will again subsist in this Nation. We know that while Popery was established

in this Country, all the Lands which the Priests, regular or secular, could once get Possession of, became not only unalienable, but were in a Manner torn off from the Commonwealth, and dismembered, as it were, from the Body of the Society; for they were rendered for ever free from publick Taxes, or from being obliged to contribute any Thing towards the Safety or Defence of the Kingdom; and as the Priests were more properly the Subjects of the Pope of Rome, than of the King of England, every Enlargement of their Possessions, was an increasing of the Power of a foreign Prince in the very Bowels of the Kingdom. This was the chief and the strongest Reason for preventing the Alienation of any Lands to them, and there was another Reason of a private Nature, which was good against Alienations either to Lay Corporations or Ecclesiastick: I mean the Damage that might accrue by Alienations in *Mortmain*, to the Lords of whom those Lands were held; for the Lord was thereby forever deprived of all those Profits and Services which were, or might become due to him by the Nature of the Tenure; but as neither of these Reasons now subsist, as no Lands alienated in *Mortmain* can now be freed from any of the publick Taxes, and as no private Man can suffer by any such Alienation, we have not so great Cause to guard against Alienations in *Mortmain*.

I shall grant, my Lords, that a Man who has a particular Right to a Land Estate which he may transmit to his Posterity, will probably be more concerned about the Preservation of that Right, than about preserving a Right which he has in Lands only as a Member of a Corporation; but every Man who has a Concern in the Management of a Corporation, has some Property of his own, and the Preservation of that Property will make him as daring and active against a foreign Enemy, and as jealous of arbitrary Power, as his Nature and Constitution will admit, which is all that could be expected of him, were he the Proprietor of those Lands in which he has only a Right as a Member of a Corporation; so that if all the Lands in England were in the Possession of Corporations, I believe the People would be as ready to defend themselves against a foreign Enemy, and as tenacious of their Liberties and Privileges, as they are at present: And as for our religious Corporations, besides the Concern which every Member must have for preserving the private Property he possesses, if he has any Regard for the Religion he professes, he must have a more than ordinary Concern for preserving the Nation against foreign Invasions, and for preserving our happy Constitution; for by the Success of any foreign Invasion, the established Religion would certainly be destroyed, and it would be in a very precarious Situation.

if it should ever come to depend upon the variable Will of an arbitrary Prince; from whence I must conclude, that neither the Safety of the Nation, nor the Preservation of our Constitution, is much concerned in preventing the Alienation of Lands in *Mortmain*.

The only Reason I can suggest to myself for restraining the Alienation of Lands in *Mortmain*, is, lest any one particular Corporation should, by getting a great deal of Land in their Possession, become so powerful, as to be able to prescribe Laws to the whole Kingdom; and I am sure there is not at present a Corporate Body in the Kingdom from which any such Danger is to be apprehended, nor can such a Danger arise in any Time to come, while our present Laws against Alienations in *Mortmain* continue in force; for as no Corporate Body can purchase or hold a greater Quantity of Land than they are now intitled to purchase, without a new Licence from the Crown, it will always be in the Power of the Crown to put a Stop to the purchasing of more Lands by any particular Corporation, whenever it shall be thought proper; which we may assure ourselves the Crown will always do long before any such Corporate Body arrives at a dangerous Pitch of Riches and Power. With respect therefore to Alienations in *Mortmain*, I can see no Reason for any new Law against them, or for laying any further Restraint upon them.

Now, my Lords, with regard to the granting or devising Lands by Will, it is certain that by several late Statutes a much greater Latitude is allowed in that Way, than was allowed by the Common Law; but we very well know the two chief Reasons why no such Devises, except with respect to Burgage Tenures, were allowed by the Common Law. The first proceeded from the Nature of our ancient Tenures; for as all our Lands were granted to Men and their Heirs, for certain Services to be performed to the Lord or Grantor, it was thought necessary the Land should descend to the Heir, in order to enable him to perform those Services to his Lord; so that the first Grant was looked on as a sort of Entail, for the Tenant in most Cases could not so much as alienate the Lands, even in his Life-time, without the Consent of the Lord; the Nature of the Tenure therefore disabled him from disposing of his Fee without the Consent of his Lord, and if he had Time to obtain the Consent of his Lord for granting his Fee to any other Person besides his next Heir, it was as easy for him to do it by Deed as by Will; for which reason, while Things continued in that Situation, it was quite unnecessary to give any Man a Power to dispose of his Land Estate by Will, even tho' he should obtain his Lord's Consent for so doing. The other Reason proceeded from

the Nature of the Popish Religion, for in all Countries where that Religion is established, the Monks and Friars insidiously watch the last Moments of every dying Person, in order to terrify him into the giving great Legacies to their respective Fraternities; and as some of the Tenets of that Religion are most artfully adapted for making Men very generous to the Church in their last Moments, the Lawgivers of this Country, as well as most other Countries, took care that it should not be in the Power of those Priests to make themselves the Heirs as well as Executors to any dying Person.

But now, my Lords, both these Reasons are removed from this happy Kingdom, and therefore I think the natural Right a Man has to dispose of his own at what Time, and in what Manner he thinks most proper, ought to take Place. It is certain that a Power to dispose of a Man's Estate at his Death in such a Manner as he may then think best, is a great Incitement to Industry and Frugality, and consequently a great Encouragement to Trade in every Country where it is established; and we may observe that the Trade and Riches of this Kingdom has increased more in the two Centuries since this natural Right was restored, than it did in many Ages before. It is a Power that is coveted by every Man, because when he has any Estate, and a Power to dispose of that Estate by Will, while he lives he may expect to meet with a proper Regard and Attendance both from his next Relations, and all those who happen to be near him; whereas, take this Power from him, and he may very probably in his last Sickness or Extremity be neglected by his next Heirs, and despised by all his Servants. For this Reason if you lay any Restraint upon a Man's disposing of his Land Estate by Will, it will certainly prevent many from laying out any Part of their Money upon Land, which will of course sink its Value; for the Value of Lands, as well as of every other Commodity, depends much upon the Number of Buyers that happen to be in the Market. Even our Ancestors, my Lords, notwithstanding the Dangers and the Apprehensions they were under from the Insidiousness of Popish Priests, yet so sensible were they that this Power of disposing of our Estates by Will, was an Encouragement to Trade, that by the Customs of all our trading Towns, and wherever the Tenure would admit of it, even Lands were devisable by last Will: I mean those Lands which were held by Burgage Tenure; and tho' Sir Edward Coke does seem to throw some Reflections upon making other Lands devisable by Will, yet we know it to be an Axiom in Law, as old as the Common Law of England, that *Interest Reipublice Suprema. hominum Testamentis rata haberi*; which Axiom that great

Lawyer has mentioned with a seeming Approbation, I shall grant that the Power of disposing of a Land Estate by Will, may subject a Man upon his Death-bed to many Solicitations and great Importunities; by which some Men may be in a Manner forced to disappoint their natural Heirs, tho' this last I believe seldom or never happens, but where such Heirs have been guilty of Misbehaviour, or at least of some Imprudence; but there is no Convenience in this Life without some Inconveniencies attending it: The Possession of a great Estate, or of great Power subjects a Man to many Solicitations and much Trouble, yet no Man would give up a great Estate in order to avoid such Solicitations, and very few would refuse to accept of a great Employment, because of the Trouble attending it. If this Argument were good against leaving it in a Man's Power to dispose of his Land Estate by Will, it would likewise be a good Argument against leaving it in his Power to dispose of his Personal Estate by Testament, and therefore, it might be said, we ought to return to the antient *Welfh* Law, which was abolished by an Act of the late King *William*. In the same Manner, if the Multiplicity of Law-suits occasioned by Devises of Land, could be a good Argument against admitting of any such Devises, it would likewise be a good Argument against admitting of any Property, because it is certain, if there were no Property, there could be no Law-suits. But the Conveniencies attending Property, as well as the Conveniencies attending the free Disposal of that Property, are much greater than the Inconveniencies, and therefore both ought to be established and preserved in every well-regulated Society: Nay, in most, I believe in all Societies, a greater Latitude has been given, and more Favour shewn, to the disposing of Estates by Will, than to the disposing of Estates by Deed: In this Country we know that a more benign and favourable Interpretation is put upon the Words of a Will than on those of a Deed; and Persons under the Age of 21 are allowed to dispose of their Estate by Will, tho' they are not allowed to dispose of it by Deed; besides several other Privileges with respect to Wills, all which it would be too tedious to mention.

Having thus, my Lords, shewn that there is now no Danger to be apprehended from Alienations in *Mortmain*, or from a Liberty of devising Land Estates by Will, I must next beg Leave to take Notice of that particular Sort of Devises which is to be restrained by the Bill under our Consideration; and here I hope your Lordships will excuse me, if I say a few Words in favour of Charity. I am sure it does not stand in need of an Advocate with any Lord in this House; but as the Bill now before us will, in my Opinion, be a great Obstruction to all Charity for the future, I

think myself obliged to say something in favour of that amiable and useful Virtue. To assist the Widow and Fatherless, to relieve the Unfortunate and Distressed, to give Bread and Employment to the Indigent and Industrious, to nourish the tender Infant, and succour the helpless Old, are Actions in a private Man, which I am sure, will always meet with a general and just Applause; and if they are commendable in a private Man, surely they are not so abominable when performed by the Publick, as to deserve being prohibited by a publick Law. On the contrary, we find that in all Countries, and in all Ages, a proper Care of the Poor, and proper Hospitals for that Purpose, has always been taken Notice of as a certain Sign of a wise and good Magistracy, and of a well-regulated Commonwealth. I am sure I have often heard it told to the Praise and Honour of a neighbouring Republick, that a Native of their Country is seldom or never seen begging in the Streets; and but very lately in this House, I heard great Encomiums thrown out upon a certain Set of People in this Kingdom, for that they took a particular Care of their Poor. (See p. 661 C.) Now, my Lords, if it be a good and laudable Thing in a State, or in any private Society, to take a proper and effectual Care of their Poor, what can we think of a Law in any Kingdom for preventing its being ever in their Power, in a publick Way, either to supply the Poor, or relieve the Distressed? In no Country, in no Society, can this be done, in a publick Way, without a publick Fund for that Purpose; and the larger the Fund is, the more effectually and the more generally will the Poor be supplied, and the Distressed relieved: Therefore in every Country, and in every Society, there ought to be some such publick Fund; and till that Fund be grown fully sufficient to answer the Purposes designed, surely no Methods ought to be taken to prevent its Increase.

We have, 'tis true, my Lords, many and great Hospitals in this Kingdom, but they are far from being sufficient for the Purposes designed. To nourish and feed our Children, to educate them in the true Principles of Religion and Morality, and to breed them up to some Trade or Employment, by which they may provide for themselves, and be useful to Society, are Duties incumbent upon every Parent; but when the Parents are dead, or rendered unable to perform those Duties to their Children, the Children then become the Children of the Commonwealth, and those Duties ought to be performed by the Publick. Let us take a View of the several Parts of this great City, or of any Part of the Kingdom, and we may see that the Hospitals we have for poor Children, are far from being sufficient for all the poor Children who have no Parents, or whose Parents are unable

to provide for them. To support a decayed and decrepit Parent, who thro' Age or Infirmary is not able to provide for himself, is a Duty incumbent upon his Children, but when he has no Children, or such as are unable to discharge that Duty, it then becomes a Duty upon the Publick, and tho' we have several Hospitals for the Old and Infirm, I am sure they are far from being sufficient for the Purpose. In the same Manner we shall find that our Hospitals for Sick and Wounded, and our Hospitals for Mad-men and Idiots are far from being sufficient for providing for all such Objects of Charity: And when we find there is such a Deficiency in every Branch of publick Charity, I must think it both uncharitable and unwise to make a Regulation which will very much prevent the Increase of every one of our publick charitable Funds.

Among our many other charitable Foundations, I hope it will be granted, that the publick Charity established by her late Majesty *Q. Anne*, for augmenting the Maintenance of Ministers of the Established Church, not sufficiently provided for, and from thence called *The Corporation of Q. Anne's Bounty*, is a necessary and useful Foundation. The distressed and narrow Circumstances of many pious and worthy Clergymen of the Church of *England*, is an Evil and a Scandal that has been often taken notice of, and heavily complained of; therefore, in order to provide a Cure for that Evil, and to remove that Scandal from the Nation, her most Gracious Majesty, by Authority of an Act of Parliament, did establish a Corporation, upon whom she settled the first Fruits of all Benefices spiritual, and by the same Act of Parliament any Person is enabled to grant to the said Corporation any real or personal Estate, all which they are to apply to the Augmentation of the Maintenance of Ministers of the Church of *England* having no settled competent Provision, to be applied according to the Will of the Benefactor, or in such Manner, and according to such Rules, as should be appointed by their Charter: Accordingly divers Rules and Orders were settled by her said late Majesty, by some of which Rules and Orders, the Augmentations to be made were directed to be by way of Purchase, and not by way of Pension; and the stated Sum to be allowed for the Augmentation of each Cure was limited to 200 *l.* and the Corporation was empowered to give the said Sum only to Cures not exceeding 35 *l.* *per Ann.* (which was by Authority of his late Majesty *K. George I.* enlarged to 50 *l.* *per Ann.*) but this Sum of 200 *l.* each is first to be applied to those Cures not exceeding 50 *l.* *per Ann.* where any Person will give the same, or greater Sum or Value in Lands or Tythes to the same Cure. Now, my Lords, let us consider the proper Fund of this Charity, and the Uses for which

it is intended, in order to see whether the Fund is any way sufficient for answering the Design. The only proper Fund they have, is the Revenue of the first Fruits and Tenths, which was granted them by the late *Q. Anne*, and which does not amount to 14,000 *l.* a Year; the Uses to which this Fund is appropriated, are the Augmentation of all the Livings in *England* under 50 *l.* a Year; and as it is computed there are above 5500 such Livings in *England*, we must conclude, that it will be above 300 Years before they can make any proper Provision for all those of the Clergy, who have not a settled competent Provision; and I am sure every one of your Lordships must think, that it would be a great Scandal upon this rich and opulent Nation, to leave many of their poor Clergy almost in a starving Condition for such a great Number of Years: This the Parliament which established the Corporation seemed to be fully sensible of, and therefore they enabled them to take Donations in Land as well as Money; and if we are now of the same Sentiments, we must be of Opinion, that this publick charitable Fund, like all the rest, is far from being sufficient for the good Purpose intended.

It being thus apparent, my Lords, that every Society ought to support the Poor, and relieve the distressed Members of their Society, and it being impossible to do this without proper and sufficient Funds for that Purpose, therefore it is certain that in every well-regulated Society they will endeavour, as much and as soon as they can, to establish such Funds: And it being likewise apparent, that no one of our publick charitable Funds is sufficient for the Purpose for which it was designed, it must be inconsistent with good Polity at least, to make any Regulation, which will very much retard, if not entirely prevent the Increase of either of them. That the Bill now before us will very much retard the Increase of any one of our charitable Funds is evident; for it puts it out of the Power of any Man to give Charity at that very Time, when all Men are most apt to give Charity, which is when they find themselves drawing near to the Gates of Death, and begin to despise those Riches and Estates, which they were so fond of, while in Health and Vigour, that no Consideration could prevail with them to give away the most inconsiderable Part: This of itself would, in my Opinion, be a very great Bar to the leaving of any Estate in Land to a charitable Use; but to make this Prohibition extend to charitable Donations granted either by Will or Deed, by Persons in full Vigour and Health, and to make them also void, unless made to take Effect in Possession for the charitable Use intended immediately from the making thereof, and also unless they be made without any Power of Revo-

Revocation, Reservation, Trust, Condition, Limitation, Clause or Agreement whatsoever, for the Benefit of the Donor or Grantor, or of any Person or Persons claiming under him, will certainly be an absolute Bar to the leaving of any Land Estate to a charitable Use; for no Man will in his Life-time grant away his Estate in such a Manner, even to the most charitable Use he can think of; because in case he did so, he might come to want Charity himself before he died, which is a Danger no Man will expose himself to; and therefore, unless these Words be left out, I shall look upon this Bill, not as a Bill to prevent the granting of Land Estates to charitable Uses by Will, but as a Bill to prevent the granting of Land Estates by Will or Deed, or by any manner of Way, to any charitable Use whatsoever: and I cannot think our charitable Foundations have as yet got Possession of such a Quantity of Land, as to afford the least Shadow of Reason for passing such a Bill.

But further, my Lords, with respect to the Corporation for the Bounty of *Q. Anne*, this Bill, as it stands at present, will not only be an absolute Bar to the granting of any Land Estate to them, but I am afraid it will be an absolute Bar to the leaving of any Legacy in Money, or other personal Estate to them; for as no Sum of Money, or other personal Estate, to be laid out or disposed of in the Purchase of Land, is to be hereafter given to any Body Corporate, except in the Terms prescribed by this Bill; and as by the Rules of that Society all Sums of Money given to them are to be vested in the Purchase of Lands, I am afraid all Legacies left to them will be made void, as Sums of Money given to be laid out in the Purchase of Lands; nay, I am afraid, if any Gentleman should give them 200*l.* in Money for augmenting any small Benefice in his Neighbourhood, and should die within 12 Months after, that the Corporation would be obliged to return the 200*l.* to the Gentleman's Executors; therefore I hope, if this Bill passes into a Law, some Words will be inserted, or some Clause added, for explaining this Point in favour of the Corporation; for I hope we have not so far changed our Sentiments with regard to this Corporation, as to make it the least favoured, instead of being the most favoured charitable Foundation in *England*.

Since the charitable Funds we have in this Country, are not sufficient for the good Purposes intended, or for answering those Ends which ought to be answered in every well-regulated Society, I have said, my Lords, that it would be inconsistent with good Policy to make any Regulation, by which the Increase of those Funds might be retarded, or perhaps entirely prevented; and this, I think, I have shewn will be the certain Effect of the Bill

now before us. To this let me add, that with regard to good Policy it signifies nothing, whether the Grant or Donation be a Charity in the Donor, or not; therefore we have at present no Occasion to enquire, whether it be a Charity or not in a Man to give to a charitable Use that which he can no longer possess or enjoy. I shall grant, that a Death-bed Charity, or a Donation to take place after a Man's Death, has not the same Merit with that Charity which a Man gives away in his own Life-time; but even the former is not without its Merit; for if it proceeds from a Regard for the publick Good, and for the Honour of one's Country, or from a Fellow-feeling in the Misfortunes of Mankind, it is certainly highly commendable; and even, supposing it proceeds from the Pride and Vanity of the Donor, which we ought not in Charity to suppose, yet as long as our charitable Foundations stand in need of any Increase, it ought for the sake of good Policy to be encouraged, in all Cases where no real Injustice is thereby done to any particular Member of the Society.

This, my Lords, naturally leads me to consider the Right which a Man's next Heir or next Relations have to the Estate he has acquired by his Industry and Frugality; with regard to which I shall grant, that a Man is obliged to support his Relations under Misfortunes, and even at his Death to leave them wherewithal to support themselves, in order to prevent their becoming a Burthen upon the Publick; but that he is obliged by any Law in the World to leave a great and opulent Fortune to every one, or to any one of them, is what I believe no Man will pretend. If a Man dies without disposing of his Estate, the Law, 'tis true, gives it to his next Relations, according to those Rules which have been established in each respective Country; but this does not proceed from any Right which the Relations had to that Estate before the Death of the Owner, but from a Presumption that it was his Desire to have his Estate so disposed of; for it is a Quality inseparable from Property, that the Owner may dispose of it as he pleases; and therefore if a Man's Relations, or any one of them, forms an Expectation of his Estate independent of, or contrary to his Will and Intention, it is an unjust Expectation, an Expectation in which he may disappoint them without being guilty of the least Injustice. They have no natural Right to any greater Share of his Fortune than he pleases to bequeath them, and the giving them any legal Right, would be the Cause of a great deal of unnatural Behaviour.

To conclude, my Lords, if a Death-bed Donation, or a Donation to take Place after a Man's Death, proceeds from a sincere Regard to the publick Good, or a true Sense of the

the Misfortunes and Distresses of our Fellow Creatures, it is a real Charity, and I must think it both uncharitable and unchristian to prevent its being granted: And if it proceeds from the Pride and Vanity of the Donor, which I hope it seldom does, yet, while our charitable Foundations stand in need of any Increase, while there is any Object of Charity in the Kingdom unprovided for, I

must think it inconsistent with good Polity, and derogatory to the Honour of the Nation, to prevent its being granted: For which Reason, I must be of Opinion, that, as a good Christian, and as a good Subject, I am obliged to give my *Negative* to this Bill.

[*The Reply to this, and these Debates to be concluded, in the Appendix.*]

A View of the Weekly ESSAYS and DISPUTES in this Month.

Grubstreet Journal, Dec. 2. N^o 362

Craftsman, Dec. 4. N^o 544.

Of the Method of conveying the earliest Histories, &c.

Q. Elizabeth's and K. James's Reigns compar'd.

CRITICS, who take Pains with the History of the earliest Ages, find themselves embarrassed in a Multitude of Fables. It was the Custom of those Times to cloath all that was valuable of their Knowledge in such Kind of mysterious Characters. The Memory of a Colony migrating, or a City rising could be elegantly preserved under the Fiction of a Rape, or a Dragon, or a Demigod. The Wandrings of Heroes, and the Wars of Gods, were the Subject of their Annals, as well as of their Songs. Machinery and Invention made then the largest Part of their Histories. To have been an Historian, or to have been a Poet, was the same Thing.

It is a different Case with the Antiquities of our modern European Nations. These are not garnish'd with poetical Fables, but encumbered with Monkish Forgeries. The old Gothic Historians did not converse less in the Marvellous, than the venerable Romanizers of old Greece. But their Fictions command less Regard. For in those we have only the Strokes of a poetical Vein; in these, the Sallies of a meditated Unfaithfulness; on the one Side, the fine Disguisements of Allegory; on the other, all the Wantonness of falsifying. The old Greeks endeavoured no less at the Instruction of the Learned, than the Amusement of the Vulgar: the Monks would impose on the Credulity of both. The former obscured History; the latter perverted it.

I never hope to see the Ogygian History of the Greeks cleared up, at this Distance of Time, from the Darkness of its Fables. Our remote Northern Antiquities are still more to be despaired of: and with whatever Confidence modern Writers may give the Detail of these Matters, their Authority goes no farther, than that of the Monks whom they transcribe. *To this Source he refers the Story of Brutus's landing in Britain, and the extravagant Accounts of the Antiquity of the Scotch Nation.*

RAPIN observes that Q. Elizabeth surmounted all the Difficulties of her long Reign, by the Help of two or three Maxims, which she laid down for the Rule of her Conduct; that is, *to make herself beloved by her People; to be frugal of her Treasure; and to keep up Dissention amongst her Neighbours.*

C That the great and only natural Security of a free Government consists in the Affections of the People, is an Observation generally acknowledged. The chief Question is, how the Affections of the People are to be secured; and that is best explain'd by the whole Course of Q. Elizabeth's Conduct; for tho' she carried her Prerogatives to a great Height, in some Instances, and was obliged to make several Examples of Severity; yet it was evident from all her Actions, that the Prosperity of her People was her ultimate Aim. She not only encouraged Trade, Manufactures and Industry at home, but protected her People against all their Enemies abroad; and tho' her Reign was one continued Scene of Plots against her Life, she scorn'd to burthen them with a standing Army.

E She was likewise very frugal of her Treasure. This saving Spirit was of a very different Nature from that, which engrosses the Minds of some Princes. She had no Notion of squeezing Money out of the Pockets of her People, in order to hoard it up in her own Coffers, like her Grandfather Henry VII. but made it a standing Maxim of her Reign, *that while her Subjects were rich, she could never be poor.*

But what contributed more than any Thing else to her own Security, as well as the Interest of the Nation, was her keeping up Dissention amongst her Neighbours; and diverting their Designs against herself, (whom most of them mortally hated, on Account of her Religion) by secretly playing them against one another.

The Wisdom and Address of Q. Elizabeth, in all these Particulars, cannot be better illustrated

trated than by the different Conduct of her Successor, K. James I. for, instead of gaining the *Affections and Confidence of his People*, he render'd himself suspected, despised, and hated by them; instead of the *same OEconomy in the Management of his Treasure*, he lavish'd it away in a ridiculous Manner; and instead of *sowing Divisions amongst his Neighbours*, he made it his constant Endeavour to prevent, or heal them, wherever they happen'd. For this Purpose, he was always sending *Couriers and Ambassadors* from one Court to another, who paid him little or no Regard; and by these Means he became not only the Bubble, but the Jest of all Europe. In short, he seem'd to glory in nothing so much as being call'd the *Pacific King*, for which he sacrificed the Interest and Honour of the Nation; and his Reign is branded to all Posterity, as a *Reign of Treaties and Negotiations*.

He came from Scotland with Ideas of *Monarchy and Prerogative*, which did not at all agree with the Nature of our Constitution. Besides, he was not only *hot and passionate* in his Temper, but had such an high Conceit of his own Parts, that he thought himself above all Advice; tho' no Prince was ever more blindly govern'd by his *Favourites* than himself. But the greatest Misfortune of all was, that he happen'd to fall into the Hands of *Men*, at his first Accession, who had no other Way to gain his Favour than by flattering his Vanity, and gratifying his Passions. The chief of these was Sir Robert Cecil, who had been one of the principal Agents in the Death of the Earl of Essex; and as K. James always call'd that unfortunate Lord his *Martyr*, it was little thought he would ever take one of his greatest Enemies into his Favour, or at least make him his *Prime-Minister*. But it appear'd that he had taken Care before-hand to make his Peace, by betraying his *old Mistress*, and holding a secret Correspondence with the *presumptive Heir of her Crown*.

In order to establish himself in his new Master's Favour, he found it necessary to cry up the *regal Authority*, and concur with him in all his *arbitrary Maxims of Government*. This was not only pleasing to the King, who could not endure the Thought of a *limited Monarchy*, but likewise serviceable to his Designs; for there being a numberless Herd of *hungry Courtiers* to satisfy, it was necessary to furnish him with great Sums of Money; but as *Ministers* had not then learn'd the Art of managing *Parliaments*, and the King's Principles were not likely to conciliate their Affections, the Court was obliged to have Recourse to *Monopolies, Loans, Benevolences, &c.* It is said that Cecil, who was now become Earl of Salisbury and Lord-Treasurer, possess'd the King with an Opinion, that England was an *inexhaustible Mine*; and if he had con-

tented himself with digging a large Treasure out of it himself, without prostituting it to every greedy Pretender, his Memory might have been deliver'd down to Posterity, in as amiable a Light, as that of his immortal Father, the Lord Burleigh. However, I must do him the Justice to acknowledge, that he is represented in History as a Man of great Parts, and some Virtues. Old Francis Osborne says, (I don't mean *Gazetteer Osborne*) that he was the first ill Treasurer, and the last good one, since Q. Elizabeth's Days.

What I chiefly intend, by these Remarks, is to shew the great Misfortune of a Nation, when a new King thinks fit to employ Men in his Service, who are either conscious of any Guilt in their former Conduct, or have justly incurr'd his Displeasure; for as such Men will never dare to oppose any of his Measures, it is natural to suppose that he may be tempted to take an Advantage of their Situation, and put Things upon them, which he could not think of proposing to others, who stand clear in their Characters, and have a true Regard for the Constitution.

I must likewise observe, that nothing is of more dangerous Consequence than that *Adulation and mean Submission*, which is commonly paid to Kings, upon their first Advancement to the Throne. When a plain, honest Scot saw with what extravagant Rejoicings and Acclamations K. James was received in England, he could not forbear saying, *this People will spoil a good King*. I am afraid, indeed, it was not in his Nature to be a very good one; but if he had been properly restrain'd at first, he would have certainly made a much better than he did; for as big as he affected to look, and as much as he talk'd of the Power of Kings, Experience shews us that he was not made of such stubborn Metal, but that he could bend upon Occasion; if he had been reduced to this at first, the terrible Calamities, which ensued in the next Reign, might have been prevented. But when Princes have been long flatter'd and indulged in all their Homours, Schemes and Demands, they will naturally expect the same Condescension, for the future, and insist upon that as an *undoubted Right*, which was only the Effect of ill-judged Complaisance, or perhaps some ministerial Contrivances.

Daily Gazetteer, Dec. 4. N^o 452.

A Quotation from Algernoon Sidney.

OSBORNE, in this Paper, is endeavouring to answer the *Craftsman* about the *Old Whigs*, (See p. 619.) and at last says: Because the *Legislative Power* of the Kingdom hath been notoriously traduced and infamously abused by the *Craftsman*; and the Members of the House of Commons represented

lented as little Attornies, to be instructed, called to an Account, and punished by the Persons who chose them; give me Leave to make a Quotation from an Hon. Gentleman, Mr. Algernon Sidney, who carried the Notions of Liberty as far as any Man.

After he hath shewn, that our Princes or Magistrates have no other Power than what the People confer upon them, he adds, "Nevertheless, I believe, that the Powers of every County, City, and Borough of England, are regulated by the general Law to which they have all consented; and by which they are all made Members of one Political Body. This obliges the People to proceed with their Delegates, in a Manner different from that which is used in the United Netherlands, or in Switzerland: Amongst these, every Province, City or Canton, making a distinct Body, independent from any other, and exercising the Sovereign Power within itself, looks upon the rest only as Allies, to whom they are bound only by such Acts as they themselves have made; and, when any new Thing, not comprehended in them, happens to arise, they oblige their Delegates to give them an Account of it, and retain the Power of determining those Matters in themselves. But, 'tis not so amongst us. Every County does not make a distinct Body, having in itself a sovereign Power; but is a Member of that great Body which comprehends the whole Nation: 'Tis not, therefore, for Kent or Sussex, Lewes or Maidstone, but for the whole Nation, that the Members chosen in those Places are sent to serve in Parliament. And, tho' it be fit for them, as Friends and Neighbours (so far as may be) to hearken to the Opinions of the Electors for the Information of their Judgments, and to the End, that what they shall say may be of more Weight when every one is known not to speak his own Thoughts only, but those of a great Number of Men; yet they are not strictly and properly obliged to give Account of their Actions to any, unless the whole Body of the Nation for which they serve, and who are equally concerned in their Resolutions, could be assembled: This being impracticable, the only Punishment to which they are subject, if they betray their Trust, is Scorn, Infamy, Hatred, and an Assurance of being rejected when they shall again seek the same Honour: And tho' this may seem a small Matter to those who fear to do ill only from a Sense of Pains inflicted, yet it is very terrible to Men of ingenious Spirits, as they are supposed to be who are accounted fit to be trusted with so great Powers."

Fog's Journal, Dec. 4. N^o 421.

The Study of the Greek Tongue recommended

GRÆCUM est, non est legi, a Saying in all Respects fit enough for the Times of Darknes and Monkish Ignorance, may, I am afraid, without much Impropriety, be applied to the present Age. The great Indifference, or rather the general Aversion I have observed in these latter Years to the Greek Tongue, has suggested to me the following Thoughts. If we look back into Antiquity, and trace the liberal Sciences up to their Source, we shall find perhaps the first Dawnings of Learning amongst the Egyptians and Chaldeans. Its next Step was into Syria and Phœnicia; but here its Advancement was but small, its Progress slow, and its Improvements not very considerable. But when it had extended itself as far as Greece, then it began to encrease and flourish. Here it met with universal Encouragement, was cultivated with wonderful Success; and grew up to Maturity. Then arose with unusual Splendor the City Athens, that illustrious Patroness of Letters, and Metropolis of the learned World. Then were those celebrated Academies established, and those famous Schools of Pythagoras, Socrates, Zeno, Plato, Aristotle, instituted; which have been the inexhausted Treasures of Philosophy to all Posterity. From hence proceeded those learned and eminent Heroes of Antiquity, that have done Honour to human Nature, and left such Tracts of Glory behind them, as distinguish the Years in which they acted their Parts from the ordinary Course of Time. From this Part of the World, notwithstanding all the Fury and Opposition of Ignorance and Barbarity, have descended down to us, those elaborate and excellent Writings, which have been the perfect Copies of whatever is great or noble amongst us. How can we then despise those glorious Models?

That no Exceptions can justly be alledged against the Matter of the Greek Tongue, is very evident, first, from the general Encouragement that was given to the Grecian Philosophers; who being invited over to Rome, and resorting thither, brought away with them a great Share of the Politeness, and refined Arts of their Country. Witness the famous Polybius, Carneades, Diogenes, Crætaus, and others, whose eloquent Discourses had even altered the very Nature and Genius of the Roman Youth: For they were so enamour'd of Philosophy, and heard its Lectures with such Pleasure, that at length they shewed as much Application in their Pursuits after Knowledge, as ever they had done before in the Exercise and Pomp of War. Secondly, from the vast Improve-

ments that have been made on those antient Foundations, not only in the *Roman* Empire, but also in this and most other Nations of *Europe*.

By imitating those bright Examples, by transcribing those Originals, and as it were translating *Athens* into herself, *Rome* at length became the Seat of Learning, as well as of Empire. Thus by Reflection shone forth with unparallel'd Lustre, that Meridian of the elegant Sciences, the great *Augustan* Age. But to turn our Thoughts a little nearer Home; whatever Perfection in Learning the late glorious Reign of *Louis XIV.* whatever our own most flourishing Universities have aspired to, is derived originally from antient *Greece*. From whence did we derive those Streams of Oratory, Poetry, History, Philosophy, and, in a Word, the whole Circle of Arts and Sciences, but from the first Authors and Improvers of them, the Schools of *Greece*? Can we then look upon the Causes of such valuable Blessings to our Nation with an Eye of Indifference? Shall the lofty *Homér* be buried in Oblivion, and the great *Iliad* be no more? Shall the eloquent *Demosthenes*, the inimitable *Pindar*, the great *Sophocles*, *Euripides*, *Thucydides*, *Aristotle* lie neglected and forgotten? Shall the divine *Plato* be lost for ever? Shall one of the noblest of the learned Languages be defaced and obliterated? No; for if such an unhappy Change as this should ever succeed, what must be the fatal Consequence, but a Return of that Night of Ignorance and Error we formerly laboured under, and that we must of Necessity degenerate again into the horrid Barbarity of the *Goths* and *Vandals*?

Another forcible Argument for maintaining and supporting the *Greek* Tongue, is the Study of the Scriptures and primitive Fathers: Whenever this Language is out of Date, our Religion must of Consequence expire along with it, and be extinguish'd.

I shall now point out some of the Beauties of the Language itself; and first in general, 'tis grand and majestic, harmonious and diversify'd, proper for lofty Sentiments, and peculiarly adapted to great and noble Subjects. 'Tis bold, strong and manly, and has nothing in it of that Softness and Effeminacy of the *Italian*, so much admired by a degenerate Age. Let us in the next Place observe the particular Beauty of its compound Words, which the *English* is rarely capable of, and which serve at the same Time to render the Language more concise, as well as more noble.

Old Whig, N° 90.

A Censure on the Pamphlet, entitled, Some Proposals for the Revival of Christianity, &c. (See p. 105.)

AS our Author writes with Freedom, tho' not without Art and Disguise;

I shall not confine myself to literal Quotations, but taking the Reverse of what he ridicules for his real Sentiments, I shall fairly shew what, I think, he means, under all the Masks he puts on.

His Maxims are such as these: *That Temptations of Pleasure annex'd to right Belief and Action, is the Way to promote Virtue.* This is plainly the only Way by which the Devil himself can promote Vice. Again, *One Man's Reason or Judgment may well be a Rule for another Man's Actions.* This is only Absurdity and Hobbism. Again, *When Men are once brought to believe right, they will certainly act right.* This utterly destroys Agency and Morality too; and proves the Devil a Saint at once. Again, *Persecution and State Pomp become the true Religion, and that only.* That is, true Religion ought to be established. I'll mention but one more admirable Maxim, which is, that *Liberty and Toleration are most destructive of Truth, and advantageous to Falshood.* This is fairly asserting that there is more Evidence of Falshood than of Truth. You will hardly imagine that any Man can espouse such Principles, nor easily guess what Ends they can serve. But these are, I verily think, Articles of our Author's Faith; and here follows a very suitable Religion, which he would establish.

Let Profession and Hypocrisy be admitted for Obedience: Let the Gain and Power of the Clergy be the Foundation of Religion: Destroy Civil Rights to secure the Church: Let Religion be rather envy'd than respected: All Knowledge is needless: Submission is better: Abstain from common Sense and Reason, lest it introduce Thinking and Chusing about Religion: Promote the Faith by any Means, even by Subtilty or Fraud: Indulge the Ambition and Corruption of the Clergy, lest true Religion creep in: Vex and abuse the Laity, and make Religion dear: If the Clergy are but learned, rich and lazy, Sense and Virtue are not worth minding: Multiply Comments, Creeds and Articles, lest Christianity grow too pure and intelligible: Doctors and Theologists are the Life and Spirit of Religion: Let there be Guides and Directors of the very Thoughts; and suffer not different Ways of Thinking; it tends to Error and Heresy: Fix down Scripture to one Sense, that there may be no Room for the Exercise of Reason: Let there be a Civil Head of the Church, a Monarch in Religion and a spiritual King; and no Tolerance to private Judgment: Let Religion be enacted, and Peace and Obedience be admitted for Devotion.

Is not this a glorious Scheme? I could add many more excellent Rules from our Author's Sketch; But these are surely sufficient to shew the

the Spirit of it. Is not this an admirable Religion, to be established upon the Ruins of Liberty and common Sense? These are the Principles that often lurk under Robes of Sanctity, and Professions of Zeal; but seldom appear so openly as in this Performance, which has only the thin Covering of affected Orthodoxy, and religious Buffoonery.

Craftsman, Dec. 11. N^o 545.

Mr. D'Anvers has a long Quotation from the real Francis Osborne, who wrote a great many Years ago; which, as being very little entertaining at this Time, we omit. Mr. D'Anvers introduces it thus.

MOST of our modern political Writers have publish'd their Works under the Name of some particular Gentleman, which they thought would best recommend them to the World. One of them sign'd himself William Temple; another Algernon Sidney; a third Francis Walsingham; and the present great Champion of the Gazetteer was pleased to assume the Name of Francis Osborne; tho' I was always at a Loss to guess for what Reason; there not being the least Similitude either between their Works themselves, or the Drift of them. I took some Notice of the former Mr. Osborne in my last Paper (See p. 684. A.) and shall now give a Specimen of his Writings upon a Subject, which hath been much canvass'd by his worthy Successor and myself; I mean the Advantages of Court-Factions; or what may be rather call'd a mixt Administration; where no one Man hath an absolute Power of controlling, browbeating and turning out all his Fellow-Servants in Government. When the Reader considers how long it was since Mr. Osborne wrote, he will not be surprized at the Obsolescence of his Style, or that some of his Observations do not exactly tally with the Circumstances of the present Times; but I am sure he will see a different Spirit from what his Namesake in the Gazetteer hath yet discover'd.

He concludes thus; My Design in these Quotations is to shew what were the real Mr. Osborne's Sentiments upon Courts, Princes and Ministers; for tho' he confines himself chiefly to what are call'd Minions, or Favourites, the Argument will hold equally strong against any Person, who engrosses the whole Power of the Kingdom, tho' he may happen to do it without any particular Affection of the Prince.

Daily Gazetteer, Dec. 11. N^o 438.

Some Reflections on Q. Elizabeth's Reign, occasion'd by the Craftsman, p. 683.

THE Juncture of the Times was such that as Q. Elizabeth had thrown herself

entirely on her People for supporting her Title against a Popish Pretender, so they, the Protestants I mean, had thrown themselves entirely upon her, for the Defence of their Religion against the Papal Tyranny. Thus there was no Possibility of preserving the one or the other, but by uniting their Interests, and by mutual Compliance and Forbearance for their joint Good; for it is evident, if the People had not apprehended certain and sudden Ruin from their falling to Pieces, they would not have submitted so tamely as they did, to some of those Examples of Severity and arbitrary Power, which 'Squire D'Anvers says, she was oblig'd to make. But, was Q. Elizabeth oblig'd to direct her Ecclesiastical Commissioners to disfranchise every Citizen of London that disobey'd their Injunction, when there was no Law to deprive any one of their Freedom for such Disobedience, Anno 1567? Was she oblig'd to send for a Member of Parliament, Mr. Strickland, before the Council, and forbid him sitting in the House, for a Speech he had made there concerning Superstition?

Was she oblig'd to send to the Speaker of the House of Commons for two Bills that were passing in that House, Anno 1572, and never to return them, but a Message instead of them, that she utterly dislik'd them? And when Sir Peter Wentworth said to the House, It grieved him to see how many Times the Liberty of Speech in Parliament had been infringing'd; was her Majesty oblig'd to send him to the Tower for defending their Privilege?

When a Bill against Pluralities had pass'd the House of Commons in 1584, and, says the Historian, was thrown out of the House of Lords by the Weight of the Bench of Bishops, and the Court Interest: And another Bill to lessen the Power of the Spiritual Courts, &c. was ordered to be brought in; was Q. Elizabeth oblig'd to send by the Lord Treasurer a Message, reprimanding the House for encroaching upon her Supremacy, and meddling with what she had forbidden; and commanding the Speaker that no such Bills should be brought in, or if they were, that he should not read them?

Nay, in the very Year 1588, when the Terrors of the Spanish Invasion hung on the Minds of both Prince and People, and they seem'd to be in the closest Union of Affections and Interests; when the Bill against Pluralities and Non-Residences was moved to be revived, was her Majesty oblig'd to send for those Members of the House of Commons into Custody, that had offered any Thing touching Religious Matters, without her special Allowance?

I shall mention but one Instance more of this Kind, and that was in 1592, when another Attempt was made in Parliament to have the Grievances of Spiritual Courts, &c. redress'd; was Q. Elizabeth then oblig'd to turn

turn Mr. Morris, Attorney of the Court of Wards, out of his Place, and let him lie several Years in Prison for moving it; and to commit Mr. Bromley, Mr. Walsh, Mr. Wentworth, Mr. Stevens, and other Members of the House of Commons, to Prison, where Mr. Wentworth remained many Years, for seconding and supporting his Motion? And when the House address'd the Queen for the Release of their Members, was her Majesty obliged to send them this Answer by her Privy Counsellors, *That she had committed them for Causes best known to her self; that the House must not call the Queen to account for what she did of her Royal Authority; that her Majesty did not like such Questions, nor did it become the House to deal in such Matters?*

He that reads Caleb's Morcel of History, and ever so little regards it, would not think that these Exorbitant Acts of Power were absolutely necessary for the Support of her Government, and that, as he says, she was obliged to do them. Whereas nothing is more certain than that these arbitrary, unpopular Acts, were the most needless as well as dishonourable, that ever her Reign was blemish'd with; and that they were done at the Instigation of Ecclesiasticks, whose Maxims were so fatal to her Successors.

Fog's Journal, Dec. 11. N^o 422:

FOG endeavours to shew that it is no strange Thing, that there shou'd be so many Sects and Parties in Religion, when we consider the Force of Prejudice, imbib'd from early Education; of which he gives an Instance in the Heathen, and even the great Men and Philosophers among them, as Cicero, Aristotle, &c. (except Socrates) who really, as he thinks, believ'd the absurd Notion of a Plurality of Gods. After which he concludes with this political Stroke: *Since Persons of such Knowledge, whose Works are the Admiration of all People of Letters, have believ'd in the Existence of a Number of Gods, and Gods so imperfect, and some of them guilty of Theft, Rapine, and all Manner of Vices; we need not be astonished, to see such Mortals as Osborn and Walsingham overcome by Prejudices, professing the greatest Absurdities, and paying a Kind of Adoration to such Sort of Divinities, as merit the Contempt of Men of Sense and Virtue.*

Craftsman, Dec. 18. N^o 546.

OF NEWS-WRITERS.

Dear Caleb,

NOTHING hath occasioned a more general Complaint, than the Mistakes of News-writers, and the Liberties they take with all Sorts of People. What is more

common, than to bury Men alive, without so much as the Ceremony of a Physician, and even to dispose of their Estates, Titles and Employments? I could name a Couple of brave Officers, who have been put to Death, in this Manner, above 20 Times a-piece, tho' they are still living, and I hope in good Health. Those, whom Cannon-shot and all the dreadful Instruments of War could not destroy, have had the hard Fate to fall by the Point of a sorry Goose-quill.

But I must do these Writers the Justice to confess, that they seem very willing to atone for the Havock they make in the Creation, by encouraging the Propagation of Mankind, and balancing the Bills of Mortality. For this Purpose, they bring Multitudes of Children every Week into the World, who never were begotten, or so much as thought of, unless in their own fruitful Imaginations. With the same laudable Design, they frequently set Treaties of Marriage on Foot between Persons, who never saw one another's Face, or perhaps heard of one another's Name. But if they happen by Chance to get Scent of a Match, that is really in Agitation, they are sure to hasten the Consummation of it, and put the young Couple a bed together before the Lady hath given her last kind Consent, or the Marriage-Articles are half settled.

I am glad to observe, Mr. D'Anvers, that your Paper is very seldom fill'd with any Articles of this Kind; which must put every modest young Girl to the Blush, and are sometimes attended with mischievous Consequences. Several Matches, to my own Knowledge, have been intirely broken off by these Means; and many a poor Gentleman hath suffer'd by it, in the Esteem of his Mistress; especially, if she happens to be either of a very delicate, or jealous Disposition. Besides, it is a common Trick of Sbarpers and Fortune-hunters to get such Articles inserted in the News-papers, either by Way of Introduction to the Ladies, upon whom they have form'd their Designs, or to revenge their Disappointments; not to mention that it is sometimes done by ill-designing Persons, in order to blast the Reputation of those, against whom they bear Malice.

I have likewise taken Notice, with the same Pleasure, that Advertisements against eloping Wives, so common in this Age, very rarely find a Place in your Paper; for however necessary such publick Notices may be, in some particular Cases, they are often imposed upon the Publick, with a villainous Intention; and if the Publishers don't keep themselves very strictly on their Guard, they may draw themselves into expensive Prosecutions. As such unhappy Separations are somewhat in the Nature of Bankruptcies, I think the London Gazette the properest Paper for them,

Nac

Nor can I approve of the common Practice of publishing *last Wills and Testaments*, unless where the Publick is concern'd; for I think the *private Circumstances of Families* ought not to be divulged.

There are many other Blunders, Mistakes and Artifices of *News-Writers*, which are hardly worth mentioning; such as *Horse-Races*, that were never run; *Entertainments*, that were never given; *Monsters*, that were never teemed; *Prodigies*, that were never seen; *Earthquakes*, that were never felt; *Rapes, Murders, and Robberies*, that were never committed; *Battles*, that were never fought; *Treaties*, that were never made; and *Reformations*, that were never intended.

They may alledge, in their Defence, that *Mankind are naturally eager after News*; and therefore being obliged to publish their Papers, at particular Periods, they may as well give them up, as not fill them with something or other, of *this Kind*; that the Generality of their Readers (and I hope the *Ladies* will excuse me for including some of them in the Number,) are as much pleased with *false News*, as *true*; and if the *Deadness of the Season*, or the common Occurrences of it, do not supply them with *real Facts*, there can be no Harm in coining *imaginary ones*, or making use of those, which they find ready-prepared to their Hands.

I am likewise apprized that there is a Club of *merry Ladies*, in this Town, who make it their Business to surprize the World with extraordinary Pieces of Intelligence. They meet, it seems, once a Week; every Lady brings in her *Story*, and that which is the farthest removed from *Truth*, and yet most likely to pass for such, is voted the current Article of the Week. The *fair Author* is immediately order'd to take the Chair, and the whole Society are obliged, by the *Rules of the Club*, to circulate it amongst their particular Acquaintance. The common *Collectors of News* are apt to catch a little too greedily at such *ingenious Reports*; and thus they become generally believed, till the Club meets again, and propagates some *other Rumour*, in the same Manner.

If *News-writers* are thus liable to Mistakes, in Matters of a *domestick Concern*, it can be no Wonder that they are much more so in *foreign Affairs*, which are transacted in the Cabinets of Princes, and industriously kept secret. Nay, it is well known that most of the *foreign News-writers*, from whom ours transcribe, are either under some *Restraint*, or a *Penion*; and you know, Sir, how dangerous it is to communicate any *private Articles of Intelligence*, let them be ever so true, and useful to the Publick.

How often was poor King *Theodore* dethroned, and reinstated in his Dominions, before he thought fit to abdicate them himself; if his late Retreat ought to be look'd upon as

a real Abdication. How often hath *Tuscany* been upon the very Point of being evacuated, in our *News-papers*, as well as *Fort Kehl* and *Philipsburgh* of being deliver'd up to the *Emperor*? How often hath King *Stanislaus* been going to take Possession of the *Dutchies of Bar and Lorain*? How often have the Differences between the *Pope* and the Court of *Spain*, and between *Spain* and *Portugal* been adjusted? In short, how often hath the general Tranquillity and Balance of *Europe* been restored, by these scribbling *Peace-makers*?

But nothing can set their Fallibility, as to *foreign Affairs*, in a stronger Light, than an Article publish'd last Week in most of the Papers, particularly your own; I mean that, which is call'd an *Extract of a private Letter from the Hague*, where it is not only said, "That there is a real Coldness between the Courts of *London* and *Madrid*; but that the *Spaniards* look with an evil Eye on the *British Fleet* in the *Tagus*; nor have the *English* more Reason to be pleas'd at the many Shifts and Cavils made use of by *Spain*, to delay granting the *Scheldula* for the *Southsea Company's Ship* to sail to *Buenos Ayres*." To this it is added, "That since the Discovery of the *Spaniards* Design upon *Georgia*, a Conversation lately pass'd between *Ld. Waldegrave* and *M. Trevigno*, in Presence of *Card. Fleury*. My Lord told *M. Trevigno* that it was reported the *K. of Spain* design'd to send a Squadron of Men of War into *America*; which if true, the King of *Great Britain* would think himself obliged to send another there, in order to accommodate them. To which *M. Trevigno* reply'd, your King cannot do better; otherwise his Fleet may be in Danger of Rotting in the *Tagus*. *Cardinal Fleury* observed, with his usual Calmness, that it was to be hoped both one and the other might be prevented."

This, I say, is a plain Proof how subject *News-writers* are to be imposed upon; for I should be very loth to believe that there is one Tittle of Truth in the foregoing Article.

NED FRIENDLY.

Fog's Journal, Dec. 18. N^o 423.

Of the different Languages in the World.

THE Manner in which most Languages are form'd, one being derived from another, seems to authorize the Notion of a gradual Change in the first Language. The *Greeks*, in all Appearance a Colony of the *Egyptians* and *Phœnicians*, chang'd insensibly the Language of their Fathers, and the *Greek Tongue* form'd itself by little and little on the Ruins of the *Egyptians*, which the *Greeks* totally forgot. All the different Idioms of the *Persians*, *Scythians*, and other Eastern Nations relate to it, and seem to be derived from the *Hebrew*, as from their natural

tural Root. We see new Languages daily forming, others finishing, or in Danger of losing themselves; and it may very well be so, seeing the first Difference introduced into a Language, by whatever Accident it happens, is every Day increasing by new Fashions and Manners.

The *English* Tongue is an authentick Example of this Truth. There is no Doubt but the *English* now spoken, came from that which was talk'd 500 Years ago; and yet if a Man of those Times, was to rise again in this Age, he would as little understand a Citizen of *London*, as he would be understood himself.

Nor is it in *England* only that this Change has happen'd; the *French* Academy at *Paris*, would hardly allow our Law Books, which we receiv'd from the *Normans* to be of the Language of their Country. *Quintillian* assures us that the Language spoken in his Time, was so different from that of the first *Romans* that the People understood very little of the Hymns sung by the Priests before the Gods.

So far are we from being able to prove that all the Languages, or at least the principal ones, form'd themselves from the Confusion of *Babel*, that we don't know what Language was then spoken. Many have differ'd widely from the common Opinion, which gives the *Hebrew* the Preference. But the *Egyptians*, *Ethiopians*, *Chinese*, and the *Greeks* themselves who are ignorant of their Original, believe their Tongue as antient as any other.

An Author whose Works were long since printed at *Venice*, had a Mind partly to renew the Sentiment of the antient *Greeks* on this Subject. He argued that *Adam* spoke *Greek*, and here are his Proofs, viz. That as soon as the first Man open'd his Eyes, in Admiration of God's Handy-work, he cry'd O, and so he made out the Ω; and when *Eve* was taken out of his Side, he pronounced ΩΩ; the first born of *Adam* crying at his Birth, it was understood to be ΩΩΩΩ, and the second Child having, as the Author makes it out, a pretty shrill Voice, he cry'd ΩΩΩ. From these Reasons he pretends to prove that the *Greek* Tongue is as natural to Men, as squeaking to Pigs, or a certain Sort of singing to some Species of Birds. But is it not a little whimsical, that learned Men, or at least People who make Study their Profession, should bring forth such Extravagances? I might prove by this Author's Reasoning, if I had a Fancy for it, the Language of the *Caribbee* Islands to be most antient.

If Men would argue justly, they must own, they are ignorant of the Language *Adam* spoke, tho' in all Appearance it must be the *Hebrew*. But what signifies it to us, to know whether the Confusion of *Babel*

extended only over the Minds of the Workmen, or how that Text is to be interpreted? It is sufficient to be assured, that before the Nations were dispers'd, there was only one Language spoken, and that all others were derived from it. And we must seek for the Origin of the first Language in the Divinity; 'tis there where *Adam* learn'd his first Lesson, or at least, there it was infus'd in him, with all the other Knowledge God gave him.

N. B. The Miscellany of this Day and of the 11th contain some Remarks upon Mr. Foster's second Letter to Dr. Stebbing; but as we design the first Opportunity to give some Account of Dr. Stebbing's Answer, there is the less need to take up the little Room we have with these Papers.

Daily Gazetteer, Dec. 22. N^o 468.

THERE is nothing so dangerous to a State, as an Administration compos'd of divers Persons, who have each an equal Share of Power. (See p. 687.) For where all are equal, none will obey, but each will be striving for the Superiority; and those Dissentions that perpetually arose among the great Men for the supreme Authority, have been the Ruin of all those free States, which once were so illustrious for the Wisdom of their Laws and Policy.

Macbiavel, in his History of *Florence*, lays it down as a Rule, that no Government can be properly said to be either free, or firm and lasting, which is not under the Administration of some one wise and able Man. "Cities, says he, and especially those which are well ordered (and whose Administration is by Way of Republick) often alter their State and Government, not by Distinction of Liberty and Servitude, (as many think) but of Servitude and Licentiousness; for Liberty is only a Name, revered indeed by all, but Licentiousness is the Thing esteemed by the People; and an uncontrollable, absolute Dominion, by the Nobles and great Men; Persons of their Character, being generally infected with an Ambition which would not willingly be subject either to the Laws of God or Man. True it is, that when it happens (which is very rare) by the good Fortune of a City, that a good, wise and powerful Citizen, attains to the Command, who will cause to be ordained such Laws, as may either quiet, or at least restrain from doing Mischief, these Humours in Nobles and People; then such a City may be truly called free, and that Government firm and lasting: And for Want of such Laws, and such a Person of known Wisdom and Ability to administer them, many States are continually varying from Licentiousness to Tyranny;

Tyranny; one of which is abominable to good Men, the other to wise Men; one may easily do ill, the other can hardly ever do well; in the one, insolent Men have too much Authority, in the other, Fools."

But *Machiavel* is not to be understood here to mean, that the Sovereign Power or Dominion ought to be in one Man, in order to constitute what he calls a *free, firm and lasting Government*, for that must necessarily soon degenerate into a Tyranny; his Design is only to shew that the chief Direction of publick Affairs, ought to be in a single Person, to avoid those Factions and Dissentions, which always happen where the Administration is in many Hands; but nevertheless, that such Person to whom that Trust is delegated, ought to be accountable to the Laws of his Country, for the faithful Discharge of his Duty, and to the supreme sovereign Power of the State, in whatever Hands it is lodged; and indeed it is very manifest, that what *Machiavel* means by a *good, wise and powerful Citizen attaining to the Command*, is no more, if it were put in modern Language, than the Administration being in the Hands of an honest and able Minister.

Craftsman, Dec. 25. N^o 547.

Remarks on the Gazetteers.

I HAVE not, for some Time, taken any Notice of the Writers in the *Gazetteer*, except the profound Mr. *Osborne*, whose Labours are so peculiarly dedicated to the Service of the *Times*, that I must not totally neglect him. There was something likewise in the late Mr. *Walsingham's* Writings, which gave a Sort of Spirit to a Dispute, and excited Curiosity, at least. But the present Scribblers in that Paper are such a Parcel of dull Rogues, that I am afraid my Readers will think it Loss of Time to bestow any Animadversions upon them.

But as they have lately exerted all their little Abilities to blacken the Memory of *Q. Elizabeth*, I hope the Publick will excuse a few short Remarks. I am the more inclined to ask this Indulgence, at present, because I have been told that nothing is better received, in a certain Place, than any Attempt to depreciate that excellent Princess.

The *Gazetteer* of Dec. 10. seems to be written exactly in the Style of my good old Friend, Sir *A. B. C.* I was afraid, indeed, that his fatal Mistake about the Design of Mr. *Ward's Pills*, in which he smelt out another Gunpowder Plot, would have driven him quite off the Stage; (See Vol. IV. p. 7.) and therefore, as he is a Gentleman of a busy Spirit, I had some Thoughts of providing for him in a Country, where I believe he is not yet known. In short, I design'd to

have recommended him to King *Theodore*, for his Majesty's *Jester*. But as that august Monarch hath thought fit to withdraw himself for the present, I must suspend my Resolutions a little; and, in the mean Time will just cast my Eye over his last Piece of political Buffoonery.

The Drift of this excellent Paper is, 1. To apply my Comparison between *Q. Elizabeth* and *K. James I.* to the present Times; And, 2. To prove that *Q. Elizabeth* did not surmount all the Difficulties of her long Reign by those Maxims I quoted from *Rapin*. (See p. 683.)

No, says he, 'her chief Safety and Support was, that her Protestant Subjects firmly adhered to her. It was this, that secured the Affections of her People.' To this he adds, 'that she came to the Crown with greater Advantages, in this Respect, than any Prince that hath since succeeded her.'

Now I confess, I always apprehended one of the chief Difficulties of her Reign proceeded from her Resolution to compleat the Reformation; and that all the Plots against her were concerted on this very Account. The Nation in general were so far from readily submitting to whatever she thought fit to direct, or command, as he asserts, that she was forced to play the Papist at first, both at home and abroad, till she had gain'd the Affections of her People, by manifest Proofs of her excellent Disposition, and reconciled Multitudes of them to that Religion, which she design'd to establish.

The latter Part of this Paper is spent in the prudent Application before mention'd, for which no doubt some Persons are highly obliged to him; with some modest Compliments to the present Ministers, particularly one Hon. Person, and a right seasonable Congratulation upon his late Success against all Opposition. These are such necessary Ingredients in this Gentleman's Compositions, that it goes against me to make any Reflections upon them.

I shall therefore proceed to the next Paper, upon the same Subject, sign'd ETCETERA; (see p. 687.)—*Rapin* says indeed, that her Enemies charge her with a profound Dissimulation; and with being a perfect Comedian; but is so far from saying that she either over-acted her Part (as this Writer makes him) or was even accused of it, that he justifies her Conduct, in this Respect, as absolutely necessary in her Circumstances, towards foreign Courts; and if she sometimes dissembled with her own Subjects, he observes, 'That she could not do them any hurt, by endeavouring to persuade them that she loved them tenderly, since she actually and really perform'd whatever was necessary to convince them.' If every Prince would follow her Example, in this Particular, a little Affectation would be easily

fly forgiven, and they might depend on the same Popularity; but the meer Affectation of it, without any popular Actions, will never have any Success.

Mr. *Et Cætera* accounts for her securing the Affections of her People in much the same Manner with his Brother Sir A. B. C. — I have said enough upon this Head before; and therefore shall only observe, that wherever there is a Popish Pretender in the Case, it is the Interest of the Prince on the Throne, according to this Gentleman's own Reasoning, to throw himself on his People; or, at least, to unite his Interests and Affections with theirs; especially if his Title be intirely built on a popular Foundation.

I own'd in my Paper of the 4th Instant, which gave Occasion to both these notable Pieces, 'That Q. *Elis.* carried her Prerogative to a great Height, in some Instances, and was obliged to make several Examples of Severity;' by the last of which I meant the Death of Mary Q. of Scots and some other Executions, which have been always look'd upon as the chief Blemishes of her Reign; but Mr. *Et Cætera*, having jumbled two distinct Points together, plays upon the Word obliged for the Space of a whole Column; and having pick'd up five or six Instances, where this Queen invaded the Privileges of Parliament, asks me with an Air of great Triumph, whether she was obliged to do these Things; or whether they were absolutely necessary for the Support of her Government? — No, I say, she carried her Prerogative too high, in some Instances; and considering that the People had been used to it for several preceding Reigns, there is no Wonder that they submitted to it with the more Patience, under a Princess, who made their Welfare in general the Study of her whole Life.

Our Author says, 'This poor historical Creature (meaning myself) knows not that the very domstlick Forces, at that Time, were the same, that had so terrify'd the Spaniards, that not one of them durst set Foot on Shore in England. They were then a standing Army, in a Manner, being always ready and disciplined, to serve their Queen and Country.' Now, by his Leave, this poor historical Creature does know very well that the Militia was disciplined in Q. Elizabeth's Reign, so as to answer all the good Purposes of a standing Army; and hath often ask'd the Reason why it might not be so, at present. — But it is Time to have done with such a Novice in Politicks; and so, dear Mr. *Et Cætera*, adieu!

The *Gazetteer* of Dec. 16. seems to breathe somewhat of an higher Spirit, in Answer to mine of Dec. the 11th, concerning Court-Factions. (See p. 687.) The Gentleman (whom I can hardly forbear calling Hon. is pleased to allow me 'more Sincerity, but somewhat less

'Prudence than my worthy Predecessors, for ingenuously owning (as he alledges) that all the Hopes of myself, and my Patrons are wholly founded upon Factions in Government.' I am not conscious that I have own'd any such Thing; and therefore have no Right to the Compliment of more Sincerity than my Predecessors; neither do I apprehend myself to be guilty of any Imprudence, in this Respect; for I have said no more of Court-Factions, in my Paper of the 11th Inst. than what hath been said in the *Craftsman* many Years ago.

Fog's Journal, Dec. 25. N^o 424.

AFTER some general Thoughts upon this Festival, *Fog* proceeds thus: Tho' we should be decypher'd into a Plot, we can't for our Hearts forbear taking Notice of the excellent and most noble Christmas Pye, usually prepar'd with Art by the meer Force of Female Philosophy. Before foreign Fashions pour'd in upon us, the pretty Misses were train'd up in all Sorts of Pastry Work, and in raising such Fortifications which express'd the Martial Genius of our Nation; the Rules of Architecture were observ'd with such Exactness, that a Board of well-raisd Minced Pyes, look'd like so many Castles in Miniature. This we may suppose was antiently the Ladies Amusements in Britain, that while their Husbands and their Lovers were engaging with their Enemies abroad, they describ'd in Paste, the glorious Dangers they encounter'd, and form'd their Pyes from the Plans of the Towns and Castles against which they intended to march, that so they might have the Pleasure of storming and taking them in Effigy.

As every true-born Briton loves this Pye upon Principle, work'd up by the Hand of the Female Manufacturer, what Pity it is that it should give Way to the Ragouts and Kickshaws of a fantastical Kingdom; or the whole Art be carried off as it were into the Cooks Shops of this City, to the eternal Blemish of the British Ladies Reputations! It much behoves the fair Sex to recover this Branch of their Prerogative, lest the little Power they are yet in Possession of, should be quite lost, and their Interest sunk in the Gentlemen; I don't mean certain Male Things, or otherwise, which appear about six in an Evening, as if they had been just taken out of a Band Box, but those Gentlemen who are at all Hours the Patriots of English Liberty at Home, and the Bulwark of English Honour abroad, such as adorn'd this Island when first the Minced Pye appeared amongst us.

(See more upon this Subject, Vol. III. p. 1.)

An Epistle to Mr. John Dyer, Author of Gromgar-Hill; in Answer to His from the Country to the Son of the late Earl Rivers at London. (See p. 638.) By Richard Savage, Esq; Written in the Month of April.

NOW various birds in melting consort sing,
And charm the prospect of the opening spring.

Now to thy dreams the nightingal complains,
Till the lark wakes thee with her cheerful strains,

Wakes, in thy verse and friendship ever kind,
Melodious comfort to my jarring mind.

Oh! could my soul thro' depths of knowledge see,

Cou'd I read nature and mankind like thee,
I shou'd o'ercome, or bear the shocks of fate,
And ev'n draw envy to the humblest state.

Thou can'st raise honour from each ill event,
From shocks gain vigour, and from want content.

Think not light poetry my life's chief care!
The muse's mansion is, at best, but air.

But if more solid works my meaning forms,
Th' unfinished structures fall by fortune's storms.

Oft have I said, we falsely those accuse,
Whose godlike souls life's middle state refuse.
Self-love (I cried) there seeks ignoble rest;
Care sleeps not calm, when millions wake unblest;

Mean let me shrink, or spread sweet shade
Low as the shrub, or as the cedar tall! [state,
Twas vain! twas wild!—I sought the middle
And found the good, and found the truly great.

Tho' verse can never give my soul her aim;
Tho' action only claims substantial fame;
Tho' fate denies what my proud wants require;

Yet grant me, heav'n, by knowledge to aspire!
Thus to enquiry let me prompt the mind!
Thus clear dim'd truth, and bid her bless mankind!

From the pierc'd orphan thus draw shafts of
Arm want with patience, and teach wealth relief!

To serve lov'd liberty inspire my breath!
Or, if my life be useless, grant me death!
For he, who useless is in life survey'd,
Burthens that world, his duty bids him aid.

Say what have honours to allure the mind,
Which he gains most, who least has serv'd mankind?

Titles, when worn by fools, I dare despise:
Yet they claim homage, when they crown the wise.

When high distinction marks deserving heirs,
Desert still dignifies the mark it wears.

But who to birth alone wou'd honours owe?
Honours, if true, from seeds of merit grow.

Those trees, with sweetest charms, invite
our eyes;

Which, from our own engraftment, fruitful
Still we love best what we with labour gain,
As the child's dearer for the mother's pain.

The great I would nor envy, nor deride;
Nor stoop to swell a vain superior's pride;
Nor view an equal's hope with jealous eyes;
Nor crush the wretch beneath, who wailing lies.

My sympathizing soul, his grief, can feel,
And my eye weep the wound, I cannot heal.
Ne'er among friendships let me sow debate!
Nor, by another's fall advance my state!
Nor misuse wit against an absent friend!
Let me the virtues of a foe defend!

In wealth and want true minds preserve their state;

Meek, tho' exalted; tho' depress'd, elate;
Gen'rous and grateful (wrong'd or help'd)
they live;

Grateful to serve, and gen'rous to forgive.

This may they learn, who close thy life attend;

Which, dear in mem'ry, still instructs thy
Tho' cruel distance bars my grosser eye,
My soul, clear-sighted, draws thy virtue nigh;
Thro' her deep woe that quickning comfort gleams,

And lights up fortitude with friendship's beams.

To the Hon. Sir Charles Wager, Knt. Admiral of the Blue. Written in the Year 1731.
By Mr. Price, Author of the former Verse to the same Gentleman, page 638.

DEAR to thy country and thy king,
For thee, O Wager, shall the muse
Resume the lyre thy praise to sing
In numbers thou wilt not refuse.

When thy tall ship with dreadful speed

To distant Russia wing'd its way,

The fav'ring goddess saw the deed,

And crown'd it with her noblest lay.

Soon as thy thunders spoke thee near,

And thy broad flag aloft was seen,

The northern empress shook with fear,

And thought her-self no more a queen:

Hadst thou, O chief! in arms renown'd!

Deny'd the Dane thy needful aid,

Ruin had rang'd his realms around,

And his proud tow'rs in ashes laid.

At length from every potent foe

Return'd in safety thro' the main,

Thy mighty master bids thee go,

And check the tow'ring pride of Spain!

Obedient to his high command,

Loud as the storm thy cannon roars:

It bursts thro' all the trembling land,

And shakes old Iber's sultry shores.

With boundless grief the monarch sees

His conqu'ring armies quit the field;

His num'rous fleets forsake the seas,

And to thy stronger genius yield:

Carlos himself, to manhood grown,
Oft as he bends the suppliant knee,
Shall say he owes his ducal throne
To thy dread sov'reign and to thee.
Cease then in time thy martial rage,
Enough of glory thou hast won,
And well, O *Wager*, hath thy age
Concluded what thy youth begun.
From north to south, from east to west,
By winds and waves no more be hurl'd:
In peace let ev'ry nation rest;
Nor with thy thunders fright the world.

To Mrs. G — : On a Screen of her own
Working.

A New creation charms the ravish'd sight!
Delightful harmony of shade and light!
Art vies with nature in a doubtful strife,
The finish'd copy which, and which the life.
The blooming flow'rs the painted bow excel;
The gay delusion courts, and cheats the smell.
What beauty does anemone disclose!
What flushing glories the carnation shews!
The tulip here displays her motley pride;
The piony there in richest crimson dy'd.
The hyacinth, tho rais'd by *Pæbus*' pow'r,
Derives from female skill a fairer flow'r.
The poppy with lethargick force oppress,
Her scarlet head reclines upon her breast; }
So *Henley*'s drooping hearers sink to rest.
Incircling beams the sun-flow'r's orb surround;
With flaming gold ranuncula is crown'd:
Array'd in snowy tresses lillies shine,
Pure as her mind, that form'd the neat design.
The rose here buds, there opens ev'ry grace;
So modest blushes stain the virgin's face.
Here we admire the night-shade's darker blue;
The twining woodbine there of various hue.
Here silver blooms of golden orange blow, }
Stock-gilly-flowers there, and junquils glow,
And leaves of chearful green the ground be-
strow:
Refreshing green, from age preserve those eyes,
By which you flourish in immortal dyes.

W — m D — w — n.

On LAVINIA's Marriage.

LAVINIA has of late been grossly blam'd,
And by some tattlers of her sex defam'd:
Their reason this, that she a spouse has chose,
Whose worth surpasses his estate, she knows.
But if true gen'rous love's the noblest cause,
That prompts to marriage, she deserves ap-
plause.
Ladies condemn that woman who wou'd be
One night an harlot, for the largest fee;
But her ne'er censure who becomes a wife,
The motive gain, — a prostitute for life:
Quite partial this, since, in each case, the
crime
In nothing differs, but in length of time.

EPIGRAM on a fine Lady.

VIRTUE alone, can never bring
Pleasures which will not cloy,
For 'tis at best a useless thing,
Which yields no lasting joy;
So *Pbillus* thinks, who wisely scorns
The fear of vulgar shame,
And gives each day her husband burns,
To shew she hates the name!

EPIGRAM on a young Lady who wou'd
never to Marry.

CHLOE detests the name of wife,
Is very grave, and stay'd,
Resolves to lead a happy life,
And live, and die a maid:
Yet soon as *Strephon* bravely try'd,
With well feign'd arts to win her,
The virgin yielded, blush'd, and cry'd,
I'll not be such a sinner.

To his Mistress on being slighted. A Song.

To the Tune of *Chevy Chase*.

PRAY, madam, say the reason why
You thus do sling and flout;
And tell me likewise what is all
This mighty stir about.
Is some new lover dead, I fear,
That you are grown so pale;
A remedy for that you know,
Kind *Bacchus* ne'er will fail.
Or if perhaps some greater woe
Than this may've you besell,
Your pretty lapdog I do fear,
Poor *Psyche*, is not well.
When first you from the window cast
A smiling glance at me,
That lovely face did make my heart
As brisk as any bee.
And when that I up stairs did run
Into your garret high,
I thought it paradise while on
Your charms I fix'd my eye.
But when in passion you have been,
'T has often made me quake;
Those pretty little taper hands
Have made my sides to ache.
Pray, madam, for the dangers that
I've run, let pity move;
'Tis barb'rous thus for to discard
Your poor forsaken love.

A Reply to SYL URBAN's bumble Address
to J. N. Author of BLINDMAN'S BUFF.

A T *Blindman's Buff* * poor Urban tries,
When malice ty'd the binder;

And bound so fast his stupid eyes
No beetle e'er was blinder.
Then thrice she turn'd the wretch about,
His giddy brains enchanting,
Inspir'd a strange outrageous rout,
And set him quite a ranting.
He run and stagger'd like a f—l
In mighty awkward fashion;
And broke his shins against a stool,
Which put him in a passion:
This fill'd his breast with venom full,
As is the toad's or fuller,
And dulness made his dizzy scull,
Dull as an owl's or duller.
Tir'd with the frantic fruitless chase
The * *Spec.* he thrusts his head in;
I have it here, 'tis he, he says,
This is *J. N.* of Reading.
Then bawl'd aloud with zealous air
The more to set his edge on,
Methinks I smell a *Quaker* here;
No wit's of that religion.
'Twas the profession, not the parts,
That prov'd so much disturbing;
There lay the want of due deserts,
O rare impartial Urban!
For after all this same *J. N.*
The piece ne'er set his eyes on
Till in thy wretched magazine;
Was not thy rant a wise one?
But madly to hear thee accuse
Of piracy thy neighbours,
Who can a hearty laugh refuse?
Pray what are all thy labours? *J. N.*

*These Things can be entertaining but to few
Readers; and therefore, tho' we insert
some of them to oblige our Correspondents, we
must not venture to give more than one at a
Time.*

The FADED FLOWER.

'TIS hard to say, if beauty's charms
Bring more of blessings, or of harms;
So short their date, so frail their force,
That oft their blessing turns a curse.
Collin was smit, as once he spy'd
A bed of lillies in their pride:
He look'd, admir'd, and prais'd a while,
Then snatch'd the glories from the soil;
As fondly on his bosom plac'd,
And taught their charms to grace his breast:
But soon the charms began to fade,
And all the flow'ry glories fled.
The change no sooner Collin spy'd,
But with the short possession cloy'd,
The lillies from his breast are torn,
A morning's pride, an evening's scorn.
Thus some flush'd youth, who feels the
flood
Of fortune and the fire of blood,

Upon some fair one casts his eyes,
And sees ten thousand beauties rise:
He pants all o'er, and ev'ry vein
Glow's fiercely, with redoubled flame;
Eternal truth he swears, and cries
He's slain, nay d---n'd, if she denies:
Mov'd with his passion, and complaint,
Kind nature draws her to consent;
With soft reluctance she complies,
Clings to the bliss, and heaves, and dies;
But soon, enjoyment veils her charms,
No more the youth her beauty warms,
But pall'd he throws her from his arms:
Despis'd and loath'd, her favours grow;
An angel once, a strumpet now.

An Answer to Collin's Complaint:

1.
YE winds to whom Collin complains
In ditties so sad and so sweet,
Believe me, the shepherd but feigns
He's wretched, to show he has wit.
No charmer like Collin can move,
And this is some pretty new art;
Ah! Collin's a jugler in love,
And likes to play tricks with my heart.

2.
When he will he can sigh and look pale,
Seem doleful, and alter his face,
Can tremble, and alter his tale;
Ah! Collin has every pace.
The willow my rover prefers
To the breast where he once begg'd to lie,
And the streams that he swells with his tears,
Are rivals belov'd more than I.

3.
His head my fond bosom would bear,
And my heart would soon beat him to rest;
Let the swain that is slighted despair,
But Collin is only in jest.
No death the deceiver designs,
Let the maid that is ruin'd despair;
For Collin but dies in his lines,
And gives himself that modish air.

4.
Can shepherds bred far from the court
So wittily talk of their flame?
And Collin make passion his sport?
Beware of so fatal a game.
My voice of no musick can boast,
Nor my person of ought that is fine;
But Collin may find to his cost,
A face that is fairer than mine.

5.
Ah! then I will break my lov'd crook,
To thee I'll bequeath all my sheep,
And die in the much-favour'd brook,
Where Collin does now sit and weep:
Then mourn the sad fate that you gave,
In sonnets so smooth and divine;
Perhaps I may rise from my grave
To hear such soft musick as thine.

* *Ibid.*

6.

Of the violet the daisy and rose,
The hearts-ease, the lilly and pink,
Let thy fingers a garland compose,
And crown'd with the rivulet's brink;
How oft my dear swain did I swear,
How much my fond heart did admire
Thy verses, thy shape and thy air,
Tho' deckt in thy rural attire?

7.

Your sheep-hook you rul'd with such art,
That all your small subjects obey'd,
And still you reign'd king of this heart,
Whose passion you falsely upbraid:
How often, my swain, have I said,
That thy arms were a palace to me,
And how well I would live in a shade,
Tho' adorned with nothing but thee?

8.

Oh! what are the sparks of the town,
Tho' never so fine and so gay?
I freely would leave beds of down
For thy breast, and a bed of new hay:
Then *Collin* return once again,
Again make me happy in love;
Let me find thee a faithful true swain,
And as constant a nymph I will prove.

A Receipt for Courtship.

TWO or three dears, and two or three
sweets;
Two or three balls, and two or three treats;
Two or three serenades giv'n as a lure;
Two or three oaths how much they endure;
Two or three messages sent in one day;
Two or three times led out from a play;
Two or three soft speeches made by the way;
Two or three tickets for two or three times;
Two or three love letters writ all in rhimes:
Two or three months keeping strict to these
rules
Can never fail making a couple of fools.

To the Rev. Dr. Swift, Dean of St. Patrick's.

A Birth-Day Poem. Nov. 30, 1736.

TO you, my true, and faithful friend,
These tributary lines I send,
Which ev'ry year, thou best of deans,
I'll pay as long as life remains;
But did you know one half the pain,
What work, what racking of the brain,
It costs me for a single clause,
How long I'm forc'd to think, and pause,
How long I dwell upon a poem,
To introduce your birth-day poem,
How many blotted lines, I know it,
You'd have compassion for the poet.

Now to describe the way I think,
I take in hand my pen and ink,
I rub my forehead, scratch my head,
Revolving all the rhymes I read,
Each complemental thought, sublime,
Reduc'd by fav'rite *Pope* to rhyme,
And those by you to *Oxford* writ,
With true simplicity, and wit;

Yet after all I cannot find
One panegyrick to my mind,
Now I begin to fret, and blot,
Something I schem'd, but quite forgot;
My fancy turns a thousand ways
Thro' all the sev'ral forms of praise,
What elogy may best become
The greatest dean in christendom.
At last I've hit upon a thought—
Sure this will do—'tis good for nought—
This line I peevishly erase,
And chuse another in its place;
Again I try, again commence,
But cannot well express the sense,
The line's too short to hold my meaning,
I'm cramp't, and cannot bring the dean in.
O for a rhyme to glorious birth!
I've hit upon't—the rhyme is earth—
But how to bring it in, or fit it,
I know not, so I'm forc'd to quit it,
Again I try—I'll sing the man—
Ay do, says *Phæbus*, if you can;
I wish with all my heart you wou'd not,
Were *Horace* now alive he cou'd not;
And will you venture to pursue,
What none alive or dead cou'd do?
Pray see did ever *Pope* or *Gay*
Presume to write on his birth-day,
Tho' both were fav'rite bards of mine,
The task they wisely both decline.

With grief I felt his admonition;
And much lamented my condition,
Because I cou'd not be content
Without some grateful compliment.
If not the poet, sure the friend
Must something on your birth-day send.

I scratch'd, and rubb'd my head once more,
Let ev'ry patriot him adore.
Alack-a-day there's nothing in't—
Such stuff will never do in print.

Pray, reader, ponder well the sequel,
I hope this epigram will take well.

In others, life is deem'd a vapour,
In *Swift* it is a lasting taper,
Whose blaze continually refines,
The more it burns, the more it shines.

I read this epigram again,
'Tis much too flat to fit the dean.

Then down I lay some scheme to dream on,
Assisted by some friendly demon;
I slept, and dream'd that I shou'd meet
A birth-day poem in the street;
So after all my care, and rout,
You see, dear dean, my dream is out.

SIR,

THO' I have not the Honour of a personal
Acquaintance with the great and ex-
cellent Man, to whom the following Lines are
inscrib'd, yet if you please to insert them in your
Magazine, I depend on his Pardon. No
Composition has for a long Time so much
pleas'd me as that directed to Mr. SA-
VAGE, in your Magazine for Novem-
ber

ber last, not only as it discovers the fine Taste of the Author, and has in it all the Charms of Verse, but as it proceeds from a Heart season'd with the Principles of Benevolence towards a Man, whose superior Character and Merit in the polite and learned World, deserve the utmost Regard.

Your very humble Servant,
D. THOMAS.

To RICHARD SAVAGE Esq; Son to the late Earl RIVERS.

FORbid it heaven! can a soul like thine
Not bear misfortunes, but at illa repine?
Can grief or passion swell thy lab'ring breast,
Nor inward worth afford the proper rest?
Exert thy genius, and then trace mankind,
With all their errors open to thy mind. [few!
'Tho' born to think--the thinking tribe how
See honour lost in title's gaudy shew!
See truth and virtue laugh'd by fools to scorn!
And shallow minds how ribbons do adorn!

* My lord has genius, sense and judgment clear,
* My lord has full five thousand pounds a year.
The vulgar thus--*Savage!* wou'd you presume
Thus to be prais'd, and be a mere *Sir Plume*?
Grant, on your life the worst of fate attends,
When they your foes, whom nature meant
your friends;

Such friends to me, to others have been given,
Yet equal, wise and good the ways of heaven.
To you superior gifts in rich return
For heaps of wealth, and glaring titles born,
The righteous pow'rs with bounteous hand
afford

(For all your pressing ills a full reward)
A mind that's open to the voice of truth,
To sense accusom'd from your earliest youth,
Free and unshackl'd, studious to descry
Reason's bright glare, 'midst learn'd obscurity.
'Twas truth and reason tun'd thy earliest song,
When *Hoadley's* merit dwelt upon thy tongue.
Add that the truly wise thy fate deplore,
Thy sprightly wit admire, thy judgment more.
By *Pope* below'd and prais'd, if fond of fame,
With his shall future ages join thy name.

A tasteless age, you'll say; we grant it true:
Merit depress'd--yes--*Savage!* 'tis in you.
On this depend, the age will ne'er deny
To worth, to wants like thine, a fit supply; }
For sure there are remains of modesty.
With generous scorn then view the vulgar great
Direct ambition to a happier state [brings,
Than that which wealth or pompous title
Or from the coxcomb's adulation springs.
Dare be your self; attend to reason's lore;
Sweet is her voice, and charming is her pow'r.
She'll mildly teach, how passions to controul;
And how to fill with peace the lab'ring soul;
She forms just characters from flat'ry free,
Points at the truly great! and, *Savage*, points
at thee!

* The Author of this had wrote Verses the two preceding Years in Praise of this Lady.

A HAPPY LIFE.

HOW happy is he born, or taught!
That serveth not another's will;
Whose armour is his honest thought,
And simple truth his highest skill:
Whose passions not his masters are,
Whose soul is still prepar'd for death;
Unty'd unto the world with care
Of princely love, or vulgar breath:
Who hath his life from rumours freed,
Whose conscience is his strong retreat;
Whose state can neither flatt'ers feed,
Nor ruin make accusers great:
Who envieth none whom chance doth raise,
Or vice: who never understood
How deepest wounds are given with praise,
Not rules of state, but rules of good:
Who God doth late and early pray
More of his grace than gifts to lend;
Who entertains the harmless day
With a well-chosen book or friend.
This man is free from servile bands
Of hope to rise, or fear to fall;
Lord of himself, tho' not of lands,
And having nothing, he hath all.

On the Right Honourable the Lady Caroline
Fitzroy, at an Assembly, in Bury, Sept.
29, 1736.

SINCE *Carolina*, radiant maid!
From *Euston's* sweetly pleasing shade,
Once more, amid the throng
Of virgins fair, in *Bury* seen,
Appears as bright as beauty's queen,
Once * more shall flow my song.
Yet while I feel the sacred fire,
Which she at all times can inspire,
I never can express
All her attractions rare and fine;
So faint is every strain of mine,
She charms in such excess.
Who can behold without surprize
Her most resistless sparkling eyes,
And her majestick air?
Or, when, in raptures, these they 'spy,
Not soon confess as well as I?
None can with her compare.
The noblest youths in *Britain's* court,
Where the most noble belles resort,
Own how she conquests won,
When in *Augusta's* bridal train,
So many hearts none else could gain,
Or so resplendent shone.
To her, let *Bury* honour shew,
To her, the utmost honour's due,
Who's now its highest grace;
While too ambitious is my muse,
This lov'd, this darling theme to chase,
And sing of *Grafton's* race.

That

That shining race, which e'er shall be
Respected and esteem'd by me,

And I with pleasure name,
Since shou'd my too aspiring lays
From the judicious meet with praise,
The subject gives 'em fame.

Tho' *Sacharissa* has, one age,
Much lustre lent to *Waller's* page,
Describ'd almost divine;
If I as well as he could write,
Ten ages shou'd the charms recite
Of glorious *Caroline*.

W. BRYAN.

ON CELINDA.

WHILE many nymphs lie every where
in wait, [bait,
And fear not sharpest hooks, when gold's the
Celinda fair, to whom a fool apply'd,
Tho' an estate he had,—his suit deny'd;
While numbers, says she, avaritious err,
When fortune's gifts to nature's they prefer,
And wish'd for happiness thus often miss,
For who with fools have grounds to hope for
bliss?

Whene'er I wed, if sense and genius shine,
Where wealth is not, be such a husband mine;
This she declar'd, determin'd thus to shew
Her mind untainted, and her judgment true.
How can we now *Celinda's* pow'r withstand?
Whose charms and conduct must all hearts
command.

SENECA.

AD SIS vocanti, dive sciens lyrae,
Præfens amicam tendere barbiton,
Majora dum imberbis poeta
Viribus aggreditur referre.

Non Martis atri sanguineum decus,
Non me protervæ Phyllidis inscium,
Accendit ignis, sed probanda

Sed Senecæ pia forma mirum,
Huic alma virtus laurigeram favet
Venusta frontem, & candida veritas;
Cui vultus immortale fulgens

Purpureo radiatus igne.
Virum hunc eundem perpetuo vides
Nil discrepantem unquam sibi, negligens
Seu tradat aut tollat secures

Væ populi levioris aurâ.
Non hunc cruenti mens mala principis,
Plebis insancæ nec trepidus furor
Inflexit in pejus, beatum

Moribus & meliore famâ,
Sanum juvenatque se socium dedit,
Desideratum, nec senibus minus,
Potens & indoctos docere &

Aldere delicias peritis.

Doctus malignam pauperiem pati,
Doctus timere & spernere copiam;
Virtutis hic perstat per omne

Temporis ad simulandum auctor.

SENECA.

WHEN mortals e'er by pious zeal in-
clin'd,

Seek peaceful virtue to adorn their mind,
The happy men to whom the gift is given
Spurn this dull orb below and aim at heaven;
Love with peculiar love such men respects,
By day o'er-sees them and by night protects.
Thus we, great *Seneca*, admiring see, [thee,
Heav'n's choicest gifts were ever show'd on
Rejoice thy pious person thus to find,

Fav'rite of heav'n and boast of human kind;
When blessings thus on thee bestow'd declare
To future times, that goodness is its care.

Thy pious works improv'd an impious age,
Thy life still blameless suited with thy page;

By thee the impious piously behave,
Their thoughts dilated soar beyond the grave;

By thee they meekly dare converse with God,
And in idea view the blest abode:

By thee o'er all the empyrean soar, and
And view what mortals never view'd before.

Thus like the sun's bright beams thy favours
fall,

And shine propitiously like them on all.

Who, without melting grief, can then relate
Of all thy labours the unhappy fate?

What tho' thou reatest sweetly in thy urn,
Yet generous bosoms must with pity mourn,

That *Seneca* the wise, the brave, the just,
Should mix untimely with his parent dust;

Who bravely meek unconquer'd bore the pains
Of undeserved wounds and honest stains; [guilt,
Who smear'd with blood the tyrant's rage be-

And with superior greatness on him smil'd.
In virtue's cause let dupes to fortune toil,

Just and no longer than she deigns to smile.
'Twas his to search her thro' the rugged maze

To love and follow where she led the chase.
As faithful diamonds keep their native light,

While more ignoble stones are hid in night,
Or as by tortures gold is more refin'd,

So he the more he suffer'd, more he shin'd;
With joy he saw approach his final end,

And met the king of terrors as his friend;
While the warm blood scarce trickl'd from

his veins,

He soar'd and rang'd thro' empyrean plains.
If doubtful heathens with a soul so great,

Calm and unmov'd could view approaching fate,
Then, christian, why should'st thou with pan-

nick dread,

Stand trembling on the borders of the dead?
Death is to thee disarm'd --- its forked tongue

High on the cross with all its venom hung;
Launch boldly out, thy vessel is secure,

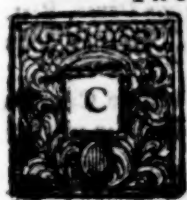
The sea is dark and deep, the pilot sure.

N. B. The longer Poems we were oblig'd to
omit this Month. The Circus was review'd
and the Blanket, which was printed by itself
2 or 3 Years ago.

THE

Monthly Chronologer.

THURSDAY, Dec. 2.



AME on a Cause at the Court of Common Pleas, against a noted Pawnbroker, for taking 2s. 6d. a Month for the Use of ten Guineas lent on a Gold Watch. The Action was laid on the Act to prevent Usury; and the Thing appearing fully to the Jury, they gave the Plaintiff 70*l.* Damages, being treble Costs, as the Act directs.

TUESDAY, 7.

Came on at the *King's-Bench* Bar, before the Lord *Hardwicke*, the Trial of *Nixon*, the Nonjuring Parson, for a High Misdemeanor, in being the Author and Publisher of a most scandalous and insolent Libel, dispersed in *Westminster-hall* on July 14. last; and also of those of the same Nature that were blown up with the 5 Acts of Parliament on that Day. (See p. 398.) The Indictment was proved very plain upon him; to which he made no manner of Defence, either by himself or Counsel; so that he was found Guilty, and is to receive Sentence next Term.

Her Majesty, the Duke and the Princesses, removed from *Kensington* to *St. James's* for the Winter Season, after having received the Compliments of the Nobility and Gentry, upon the Anniversary of the Birth of the youngest Princess *Louisa*, who now enter'd into the 13th Year of her Age.

SATURDAY, 11.

One of his Majesty's Messengers arrived at *St. James's* with the News that her Royal Highness the Princess of *Orange*, after a very long and dangerous Labour, had been delivered of a Princess on Thursday Morning last, which died soon after, but her Royal Highness was judg'd to be in a fair Way of Recovery.

MONDAY, 13.

The Sessions ended at the *Old Baily*, when eleven Persons received Sentence of Death, viz. *Phillis Fratter*, for stealing out of the House of *William Ryder* Goods to the Value of 6*l.* *Jane Cooper*, for the Murder of her Bastard Child. *George Sutton*, and *Robert Campbell*, for robbing *James Smith*, Esq; on the Highway, of a Silver Watch, a Hanger mounted with Silver, and ten Guineas. *William Wager* otherwise called *Cockey Wager*, and *Edward Baker*, for robbing Mr. *Samuel Lewis*, on the Highway. (See p. 580) *Gilbert Truer*, for robbing and binding a Person near *Tottenham-court*. *Catherine Pollard*, for steal-

ing Plate, the Property of his Majesty King *George*. *Peter Cross*, for stealing a Grey Mare, Value 6*l.* And *David Jenkins*, and *Thomas Stafford*, for stealing a Quantity of Money out of the Till or Money-Drawer of *Anne Dalby*. Fifty-four were cast for Transportation, 5 burnt in the Hand, and 54 acquitted, among whom were the Persons accused of the Murder of Capt. *Innes*. (See p. 520) *Isaac Burgess* was found guilty of Man-slaughter for killing *Thomas Howson*. After they had received Sentence, *Cockey Wager* addressed himself, in the Name of them all, to the Lord Mayor, complaining of the Hardship of having nothing but Bread and Water, during the Time they are to remain in the Cells, and praying his Lordship to allow them the Liberty of having a Pint of Beer in the Morning, and another at Night.

THURSDAY, 16.

Was held a General Court of the *South Sea Company*, when it was agreed to pay off 150 of their Bonds; the Bonds to be paid off to be drawn by Lot, and the remaining Bonds, to the Value of 200,000*l.* to carry no more than 3 per Cent. Interest, from *Lady-Day* next.

Then the Court were acquainted with what great Difficulties the Governor and Directors met in obtaining the Schedule for their annual Ship; and that the King of *Spain* made such high Demands, there was no complying with them; and that it would be too late, if the King of *Spain* did comply with the Request of the Company, to think of sending the Ship this Year. And it was resolved to address his Majesty on this Head.

FRIDAY, 17.

The Rt. Hon. the Lord Mayor and Aldermen waited on his Royal Highness the Prince of *Wales* at *St. James's*, with the Freedom of the City of *London* in a Gold Box, of 200*l.* Value: When Mr. *Baron Thomson*, Recorder of the City, addressed his Royal Highness in the following Speech.

May it please your Royal Highness,

The Lord Mayor and Court of Aldermen of the City of *London* most humbly beseech your Royal Highness, that you would be pleased to vouchsafe your gracious Acceptance of the Freedom of the City.

Your Royal Highness's condescending to this humble Request, will yield Honour to that whole Body, and to every Member of it.

And they beg Leave to take this Opportunity of assuring your Royal Highness of their dutiful and affectionate Regard, and of their hearty

heartly Wishes for your Royal Highness's Welfare and Prosperity.

To which his Royal Highness return'd this Answer.

My Lord and Gentlemen,

Tbo' no Ties were wanting to make you dearer to me, yet I receive this as a new Mark of your Duty and Loyalty to the King, and of your Affection to me. I am very thankful for your good Opinion, and shall try in all Times to deserve it, by my hearty Wishes for the Welfare of your Trade, and by my constant Zeal for the Liberty of my Country.

His Royal Highness gave on this Occasion, a grand Entertainment and fine Desert to the Lord Mayor, Aldermen, and Citizens, at *Charlton-House, Pall-Mall.*

SUNDAY, 19.

Mr. Nixon, the Nonjuring Clergyman, was again taken into Custody of two of his Majesty's Messengers, for Reprinting and Publishing a scandalous and seditious Libel, being Extracts from several Papers published in 1688, relating to the Pretender's Birth.

FRIDAY, 24.

This Morning about five o'Clock was a prodigious high Tide, occasion'd by the late Rains bringing down the Land Waters, and a strong North-West Wind filling the Channel. It overflow'd almost all New Palace-Yard, ran into Part of *Westminster-Hall*, fill'd the Town Court by the House of Commons, overflow'd the Horse-Ferry Bank, and made a large Breach in it in the same Place the great Tide last Spring did, and overflow'd all the Meadows round *Totbill-Fields*, &c. (See p. 97.)

SUNDAY, 26.

His Majesty set out from *Hanover* the 7th Inst. got to *Bentheim* the next Day; on the 9th he arrived at *Utrecht*, and came to *Helvoetsluys* the 10th. And this Morning, Advice came to *St. James's*, that on Monday last his Majesty set sail; but after being 36 Hours out at Sea, was oblig'd to put back to *Helvoetsluys*, the Wind coming directly against him, and blowing a great Storm; whether he return'd safe, but not without much Difficulty and Danger, and remain'd in good Health, waiting for a favourable Wind.

MARRIAGES and BIRTHS.

WILLIAM Bennet, of *Ware, Hertfordshire*, Esq; to Miss *Marsh*, of *Rickmansworth*.

John Chapman, Esq; eldest Son of Sir *Wm. Chapman*, to Miss *Edmundson* of *Goodman's-Fields*.

John Laugharne of *Pembrokeshire*, Esq; to Miss *Clifton*.

John Vincent of *Ickworth, Suffolk*, Esq; to Miss *Henrietta Lowther*, of *Lincolnshire*.

Thomas Edwards of *Leicestershire*, Esq; to the Relict of *George Ford*, Esq;

John Thomas, Esq; to Miss *Emerson* of *Chelsea*.

Joseph Atkins of *Wells*, Esq; to Miss *Wells* of *Bath*.

Humphry Hackshaw, of the Temple, Esq; to Miss *Maltbus*.

Peter Clarke, Esq; to the Relict of *Lewis Rotbwell*, of *Staffordshire*, Esq;

Hugh Barlow, of *Pembrokeshire*, Esq; to one of the Daughters of Sir *Arthur Owen*, Bart.

Thomas Vernon, of *Bristol*, Esq; to Miss *Nicol*, of *Hendon*.

Mr. *George Tindal*, of the same City, to Miss *Vere Booth*, Daughter of the late worthy Dean of *Bristol*.

Edward Jans, Esq; Collector of *Biddford*, to the Sister of Sir *Bouchier Wray*, Bart.

Humphry Cotes, Esq; Member for *Tamworth*, to Miss *Rush*.

Christopher Cole, of *Lewes*, to Miss *Emerson*, of the same County.

William Nicholas, of *Stoneham, Hants*, Esq; to Miss *Harriot Boyle*, of *Warwick*.

Wm. Townley, of *Townley in Lancashire*, Esq; to Miss *Standish*, of the same County.

The Rev. Mr. *Reynolds*, Son to the Bishop of *Lincoln*, to Miss *Armstrong*.

Charles Griffith, of *Boston in Lincolnshire*, Esq; to Miss *Carey*.

Mr. *Joseph Lofly*, an eminent Surgeon at *Bristol*, (at the Quakers Meeting there,) to Miss *Edney*.

Francis Seymour, of *Totness, Devon*, Esq; to Miss *Pearse*.

Wm. Wood, of *Henrietta-street*, Esq; to Miss *Claire*.

The Lady Viscountess *Falconberg*, safely deliver'd of a Daughter.

The Lady of *Christopher Page*, Esq; safely deliver'd of a Son and Heir.

The Lady of Col. *Johnson*, of the Foot-Guards, deliver'd of a Son.

The Lady of *Philip Meadows*, Esq; deliver'd of a Son and Heir.

DEATHS.

AT *Brussels*, in Child-bed, the Lady *Charlotte-Maria Bruce*, Princess of *Hornet*, only Daughter of the present Earl of *Ailsbury*, by his second Countess, *Charlotte*, Countess of *Sannu in Brabant*. Capt. *Wm. Stanley*, formerly Master of the *Namur* Man of War. *Edwin Griffin*, Esq; Clerk of the Reports, and Keeper of the Rolls Register-Office in *Chancery*. *Tbo. Hanway*, Esq; formerly a Major in a Reg. of Foot. Rev. Mr. *Wm. Kemp*, Fellow of *Christ-Church College, Oxford*. Rev. Mr. *Wenman*, Rector of *Rotbfield, Suffex*. At *Wells*, Colonel *John Dalby*. Rev. Dr. *Williams*, Curate of *St. John's-Wapping*, and Morning Lecturer of *St. Giles's Cripplegate*. *John Drake*, Esq; a Gentleman of much Observation, and well read in the Manners of Mankind. At *Paris*, *Charles Turner*, of *Swannick, Derbyshire*, Esq; At *Aix in Provence*, Sir *Edward Desbouvrie*, of *Long-*

Longford, Wilts, Bart. At *Dublin, Geo. Forbes*, Esq; twice Mayor of that City. *Richard Houlitch*, Esq; one of the S.S. Directors in 1720. Suddenly, in a Boat on the *Tbames*, *Mr. John Harford*, Senior Corn-Meter of *London*: *William Bronsfield*, Esq; Major of the Train of Artillery. Deputy *James Nutcher*, an eminent Packer. At *Greenwich*, *Capt. Collyer*, Commander of the *Fubbs Yacht*. — *Hellston*, Esq; who was Page of the Presence to the late *Q. Anne*. At *Richmond*, the Lady *Jane Alexford*, Relict of *Sir John Alexford*, late of *Durham*. *Richard Elderson*, Esq; formerly an eminent *Cadiz Merchant*. *Capt. John Simpson*, of the Foot-Guards. At *Edinburgh*, *Sir Cba. Murray of Dregburn*, knighted by *K. Charles II.* At *Ramfbury, Wilts*, *Richard Jones*, Esq; Nephew to *Sir William Jones*, Attorney General before the Revolution. At *Falston, Wilts*, *James Murray*, M. D. Near *Oundle, Northamptonsh.* *John Rose*, Esq; late High Sheriff of that County. At *Northampton*, the famous *Mr. John Rushworth*, noted for his Chirurgical Skill, and particularly for the useful Discovery of the Benefit of the Bark in Mortifications, and an exemplary Promoter of the excellent Design of establishing Infirmaries in several Counties. At *Cheferton, Oxf.* *George Baynes*, Esq; formerly Deputy-Governor of *Bermudas*. *Mr. Freeman*, one of the oldest Gentlemen of the Chapel-Royal, and belonging to the Choirs of *Westminster* and *St. Paul's*. *Mr. Craddock*, Senior Surgeon of *Guy's Hospital*. At *St. Alban's*, *John Pearson*, Esq; formerly Deputy-Commissioner of the Forces in *Jersey* and *Guernsey*. *Rev. Mr. John Smith*, Fellow of *Clare-Hall, Cambridge*. *Arthur Giles*, Esq; formerly a Lieut. Col. of a Reg. of Foot. *Mr. Tho. Worster*, Foreman of the *London-Jury*, suddenly, in the Sessions-House in the *O. Bailey*. *Rev. Mr. Williamson*, Arch-deacon of *Lewes* and Rector of *Ripe, Suffex*. *Isaac Dedier*, Esq; of the Jewel Office, and one of the King's Quarterly-Waiters. At *Derby*, *Dr. Chauncey*, a very eminent Physician. Captain *George Simons* of the Earl of *Effingham's* Regiment of Foot. Right Hon. *Sir Walter Pringle*, of *Newball*, Knt. one of the Senators of the College of Justice, and of the Lords Commissioners or Justiciary. Right Hon. *Mrs. Orme*, Sister to the Lord Vise. *Downs*, of *Yorkshire*. At *Cutlers-Hall*, *John Cotton*, Esq; Clerk of that Company, formerly Member for *Westminster*, and Deputy Steward of that City. *Rev. Mr. Long*, Vicar of *Clavering, Effex*. *Mr. John Mills*, a celebrated Comedian, belonging to the Theatre-Royal in *Drury Lane*. The Relict of the late *Sir Francis Cole*, Bart. *Capt. Soans*, Lieut. Governor of *Greenwich-Hospital*. The Lady of Colonel *John Campbell*, Nephew to the Duke of *Argyll*: She was Housekeeper for Life of *Somerfet-House*. *Joseph Lawson*, Esq; Senior Serjeant at Arms

at Court. *Mr. Samuel Chandler*, a noted Preacher among the Quakers at *Bristol*. At *Exeter*, the *Rev. Dr. Warren*, of that City. In Childbed, the Right Hon. the Lady *Louisa Viscountess Weymouth*, second Wife to the Right Hon. the Lord Viscount *Weymouth*, and Daughter to the *Ld. Carteret*. *William Williams*, Esq; a young Gentleman of a considerable Estate at *Reutben* in *Denbighshire*. At *Brentford*, *John Forrester*, Esq; a Gentleman just come of Age, and to an Estate of 3000 *l. per Ann.* *Tho. Strong*, Esq; whose Father was principally concern'd with *Sir Christopher Wren*, in building *St. Paul's, Blenheim-House*, &c. The Death of *John Fravinion*, Esq; was put in the Papers by Mistake.

Ecclesiastical PREFERMENTS.

M*R. George Stubbes* presented to the Rectory of *Tollebunt-Knight, Effex*. *Mr. Wake*, to the Rectory of *Oby, Norfolk*. *Mr. Higgett*, appointed Confessor to his Majesty, in the Room of the late *Dr. Sharp*. *Mr. John Perry*, presented to the Vicarage of *Glent*, with *Rowley, Staffordshire*. *Mr. Talbot*, Brother-in-Law to *Dr. Lynch*, Dean of *Canterbury*. &c. promoted to the Archdeaconry of *Lewes*, in *Suffex*. *Mr. Dudley Butts* collated to the Livings of *Ludham* and *Potter-Heigham, Norfolk*. *Mr. Nich. Nelson*, Fellow of *Christ-Church, Oxon*, appointed one of the Chaplains to the Prince of *Wales*. *Mr. Morgan Thomas*, presented to the Rectory of *Lougher, Glamorganshire*. *Dr. Joseph Atwell*, Head of *Exeter-College, Oxon*, made a Prebendary of *Worcester*. *Mr. Sollers*, Master of *Magdalen-Hospital* near *Winechester*, presented by the Dean and Chapter of *Winechester*, to the perpetual Vicarage of *Blandford* in the County of *Dorset*, worth 200 *l. per Ann.*

PROMOTIONS Civil and Military.

R*OBERT Guidott*, Esq; made one of the Registers in the Court of *Chancery*. *Sir Multon Lambert*, Kt. appointed Governor of *West-Tilbury* and *Gravesend*, in the Room of the late General *Tatton*. Lady *Harriot Campbell*, Daughter to the Earl of *Brodalbine*, appointed a Lady of the Bedchamber to the Princesses *Amelia* and *Caroline*. *Mr. James Chelfum*, of the Chapel Royal, and *Mr. Row*, succeed the late *Mr. Freeman*; the one in the Choir of *Westminster-Abbey*, the other in the Chapel Royal. *John Glidbill*, Esq; made a Captain in the Earl of *Effingham's* Regiment. *Richard Ellis*, Esq; made a Captain in Colonel *St. Clair's* Regiment of Foot.

Persons declar'd BANKRUPTS.

T*HOMAS Collins*, of *Half-Moon Street, St. George, Hanover-square, Carpenter*.
5 B

Mordecai Carolino, of Houndsditch, Dealer in Snuff and Chapman. John Harris, of St. Martin in the Fields, Carver. Ben. Cowley, of Woolverbampton, Chapman and Locksmith. Rob. Hillyard, of Denington, Berks, Brickburner and Chapman. Samuel Shepherd, of Castle-street, Steepney, Weaver and Distiller. Jacob de Leon, late of London, Merchant and Chapman. Wm. Patrick of Southwark, Coffee-Man and Chapman. John Skinner late of Leadenhall-street, Oylman. Nath. Lawson, late of Leeds, Malster and Chapman. Eliz. Britain, late of Chelmsford, Widow, Linen-draper and Chapwoman. Paridam Justram, the younger, of Rotterhitb, Sugar-Baker. John Smith, late of Windmill-street, St. James's, Westminster, Coachmaker. Sam. Johnson, late of Gundsburgb. Suffolk, Grocer. Rebecca Patten, of Cambridge, Milliner. Wm. Smith, now or late of Northampton, Innholder and Chapman. Jonathan Smith, of Speenbam-Land, Berks, Grocer and Chapman. Francis Adshead of Manchester, Chapman. John Wilkinson, late of Yorksb. but now of Tugbill, Northumberland, Clothier. John Gass, of Wallingford, Berks, Linen-Draper and Chapman. Henry Ward of Watton, Norfolk, Grocer. Joseph Munday, of Leadenhall-street, London, Shoemaker. William Frankland, of Spittlefields, Brewer. Thomas Croisdall, late of St. James's-Market, Butcher and Chapman. Joshua North, of Leeds, Yorksb. Merchant. Nataniel Moriell, of Eye, Suffolk, Dealer in Hops, and Chapman. William Knowles, of Shoe-lane, Fleet-street, Grocer. Robert Moudby, late of Horn-

sey, Yorksb. Shopkeeper. Samuel Thirkbill, of Sutton St. Mary's, Lincolnsh. Chapman. John Asbeon, of Southwark, Distiller. Peter Crouch, of Cheapside, China-man. William Johnson, of Darking, Linen-draper. Sampson Hele, of Exon, Linen-draper. Francis Justice, of Sutton Courtney, Berks, Malster. Joseph Jones, of Bristol, Grocer. William Tirrey, of Norwich, Worsted-Weaver. Wm. Ramming, of Brandon, Suffolk, Inn-holder.

A General BILL of all the Christnings and Burials within the Bills of Mortality, from Dec. 9, 1735, to Dec. 7, 1736.

Christned,	Buried,
Males 8471	Males 13695
Females 8020	Females 13886

In all 16491 In all 27581
Increased in the Burials this Year, 4043.

Died	
Under 2 Years of Age	10580
Between 2 and 5	2706
5 and 10	993
10 and 20	816
20 and 30	2139
30 and 40	2445
40 and 50	2357
50 and 60	2121
60 and 70	1666
70 and 80	1114
80 and 90	557
90 and 100	83

A Hundred 1. A Hundred and Five 1.
A Hundred and Eight 1. A Hundred and Sixteen 1.

S T O C K S.

S. Sea 100 $\frac{3}{4}$ a $\frac{1}{4}$	Afric. 15
—Bonds 2 16 a 18	Royal Aff. 110
—Annu. 111 $\frac{3}{4}$	Lon. ditto 14 $\frac{5}{8}$
Bank 149 $\frac{1}{4}$ a $\frac{1}{2}$	3 per C. An. 105 $\frac{1}{2}$
—Circ. 215.	Eng. Copper 21 8
Mil. Bank 116	Salt Tallies 3 a $\frac{1}{4}$
India 179 $\frac{3}{4}$ a $\frac{1}{2}$	Emp. Loan 118 $\frac{1}{4}$
—Bonds 61. 2	Equiv. 114 $\frac{1}{2}$

The Course of EXCHANGE.

Amst. 35 5 2a $\frac{1}{2}$	Bilboa 41
D. Sight 35 2	Leghorn 49 $\frac{3}{4}$
Rotter. 35 7 a 6	Genoa 52 $\frac{5}{8}$ a $\frac{1}{2}$
Hamb. 34	Venice 50 $\frac{1}{2}$
P. Sight 31 $\frac{1}{10}$ a $\frac{7}{8}$	Lisb. 55 $\frac{3}{4}$ a $\frac{1}{2}$
Bourdx. 31 $\frac{1}{2}$	Oport. 54 $\frac{1}{8}$ a $\frac{1}{4}$
Cadiz 41 $\frac{1}{8}$ a $\frac{1}{4}$	Antw. 35 11
Madrid 41 $\frac{1}{2}$	Dublin 11 a 10 $\frac{7}{8}$

Prices of Goods at Bear-Key.

Wheat 30 34	Oates 12 13
Rye 12 16	Tares 22 24
Barley 19 21	Pease 27 30
H. Beans 19 21	H. Pease 11 15
P. Malt 24 25	B. Malt 15 18

Abstract of the London WEEKLY BILL, from Nov. 23 to Dec. 28.

Christned	Males 8197	Females 739	1558
Buried	Males 12657	Females 12463	2511
Died under 2 Years old			911
Between 2 and 5			270
5 and 10			97
10 and 20			78
20 and 30			189
30 and 40			200
40 and 50			182
50 and 60			217
60 and 70			167
70 and 80			115
80 and 90			71
90 and upwards			22

2511

Hay 42 to 48s. a Load.

FROM *Gibraltar*. *Muly Abdallab* is a second Time deposed, and has withdrawn himself again towards the South; the Black Army, jointly with *Fex*, having proclaimed his Brother, *Muly Mabomet Ben Ariba*, for their King: *Muly Abdallab's* Cruelty and Tyranny have been his Overthrow this second Time. This other new King is reputed to be very humane and good-natured; so it may be hoped there will be a better Government, and that Trade will revive again.

Letters from *Leghorn* confirm the Account of *Baron Newboff's* leaving *Corfica*. They tell us, that having called the Chiefs of the Confederacy together, he told them, that as he had had long Experience of their Fidelity, and Confidence in him, he would keep them no longer in an Uncertainty, but was resolved to go himself and fetch the Succours he had so long caused them to hope for. Accordingly having appointed three to command in his Absence, and embracing the Heads of the Malecontents with great Affection, he embark'd on board a *French Ship*, and arriv'd at *Leghorn* the 12th Instant, together with several Officers, and 30 *Genoese* Soldiers who were made Prisoners at *Red-Island*. As soon as the Baron landed, he immediately took Post for the Ecclesiastical Territories, and the Officers who accompanied him, enter'd into the Service of the *Sicilian King*.

Extract of a Letter from the Hague. We are positively assur'd, that *France* has declar'd by her Minister at the *Imperial Court*, that it was disagreeable to her, to find that some Powers intermeddled in the present Affairs, who are no way interested therein:

Extract of a Letter from Hanover, Dec. 24. The sudden Death of the two last Dukes of *Brunswick-Wolfenbittel*, and the little Interval between the Decease of those two Princes, made it feared their Death was not a natural one; at first this Suspicion was looked upon as without Foundation, but after a diligent Enquiry, there has been discovered at the Court of *Brunswick* the most execrable Plot that ever was invented by the Malice of Man. It seems above five Years ago, a Design was formed to destroy by Poison the present reigning House of *Brunswick-Wolfenbittel*. The two last Dukes sell a Sacrifice to this hellish Project; and the present Duke must have suffered the same Fate, if the Divine Providence had not interposed, and preserved his Life by a seasonable Discovery of the whole Villainy. The Persons concerned are 36 in Number, but the chief Conspirator is one *Baron Wolff*, who has been for many Years at the Court of *Brunswick*; he is committed close Prisoner to the Castle of *Hartz*, with Irons upon his Hands and Feet, and a Guard continually over him: They have also seiz'd the greatest Part of his Accomplices, but some of them have made their Escape. The

Duke has appointed Commissioners to try the Prisoners, and *Mr. Boerger*, the Duke's Privy-Counsellor, is ordered to draw the Indictment against *Baron Wolff*, and make a Report of it to the Duke: He has been several Times at the Castle of *Hartz* to examine the Baron, who at length finding his Crimes fully detected, has made an ample Confession of the whole Plot.

Several Merchants of *Amsterdam*, have received Letters from *Ispahan* and *Gilan* in *Persia*, dated in *Sept.* and *Oct.* last, with Advice, That every Thing is very quiet in that Kingdom, and Provisions exceeding plenty; that the People are every where overjoy'd at the News of the Peace concluded with the *Turks*, and that there's not the least Talk of any Rebellion or Conspiracy; so that no Manner of Credit is given to the Reports of the Rebellion of the *Usbecks* against the new *Sopbi*, or of the Conspiracy of certain Lords against him; and if it may be admitted, that the Reports of that Kind come from People of any Reflection, they can only be invented and propagated by such Persons, to excuse the *Persian Monarch* for his having made a Peace with the *Turks*, exclusive of *Russia*.

They write from *Dresden*, That the Preparations for War throughout the *Ottoman Empire* are so great, that they give out at *Constantinople*, that their Army will next Campaign be 200,000 Men besides the *Tartars*.

About the Beginning of the Month, *Mynbeer Simon Van Slingenland*, Counsellor Pensionary of the Provinces of *Holland* and *Westfrisland*, &c. died at the *Hague*, aged near 73 Years: He died so suddenly, that the Servant who sat up with him had but just Time to call his Lady to see him expire. This Minister is much lamented, for his great Abilities in Publick Affairs, and fine Qualities in private Life.

About the same Time died at the *Hague*, in the 56th Year of his Age, *Mynbeer Godsfroy*, Baron of *Boetzelaer*, Lord of *Nieuwen*, first Member of the Nobility of *Holland* and *Westfrisland*, President of the College of the Deputy Counsellors of *South Holland*, great Keeper of the Seals, &c.

They write from *Rome*, That *Baron Newboff* is still incognito in that City, soliciting several Persons of Distinction, visiting a certain Foreign Minister, holding Conferences at the *Chevalier de St. George's*, and waiting for an Answer from *Naples* for Leave to come thither: In the mean Time his Confederates in the Island of *Corfica* have published a Declaration, acknowledging his Sovereignty over them, and professing an inviolable Attachment to his Person and Government during his Absence; expressing at the same Time the utmost Detestation and Abhorrence of the *Genoese* Oppression and Tyranny, and their firm Resolutions of opposing it to the utmost.

The

HISTORICAL.

1. **EBORACUM:** Or, The History and Antiquities of the City of York, from its Original to the present Times. Illustrated with 126 Copper Plates. By Francis Drake, of the City of York, Gent. F. R. S. Printed for the Author, price two Guineas and a half, in Sheets.

2. A Survey of the Cathedral Church of Worcester. By William Thomas, D. D. Sold by J. Clarke, in Duck Lane.

3. Antiquities explain'd. Being a Collection of figur'd Gems, illustrated by similar Descriptions, taken from the Classics. Sold by Mess. Knapton, price 10s. 6d.

4. The general History of China, Chinese Tartary, Corea, and Tibet. Being an historical, geographical, chronological, political, and physical Description of those Countries. Done from the celebrated Work of *Pere du Halde*. By R. Brookes, A. M. Printed for J. Watts, 4 Vols. in 8vo, price 1 l. 4 s.

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